

**FILED**  
**NO. 636**

No. 6332.

**OCT 1 1965**

JOHN F. DAVIS, CLERK

**United States Court of Appeals  
For the First Circuit**

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**NEW ENGLAND ELECTRIC  
SYSTEM ET AL.,**

**PETITIONERS,**

**v.**

**SECURITIES AND  
EXCHANGE COMMISSION,**

**RESPONDENT.**

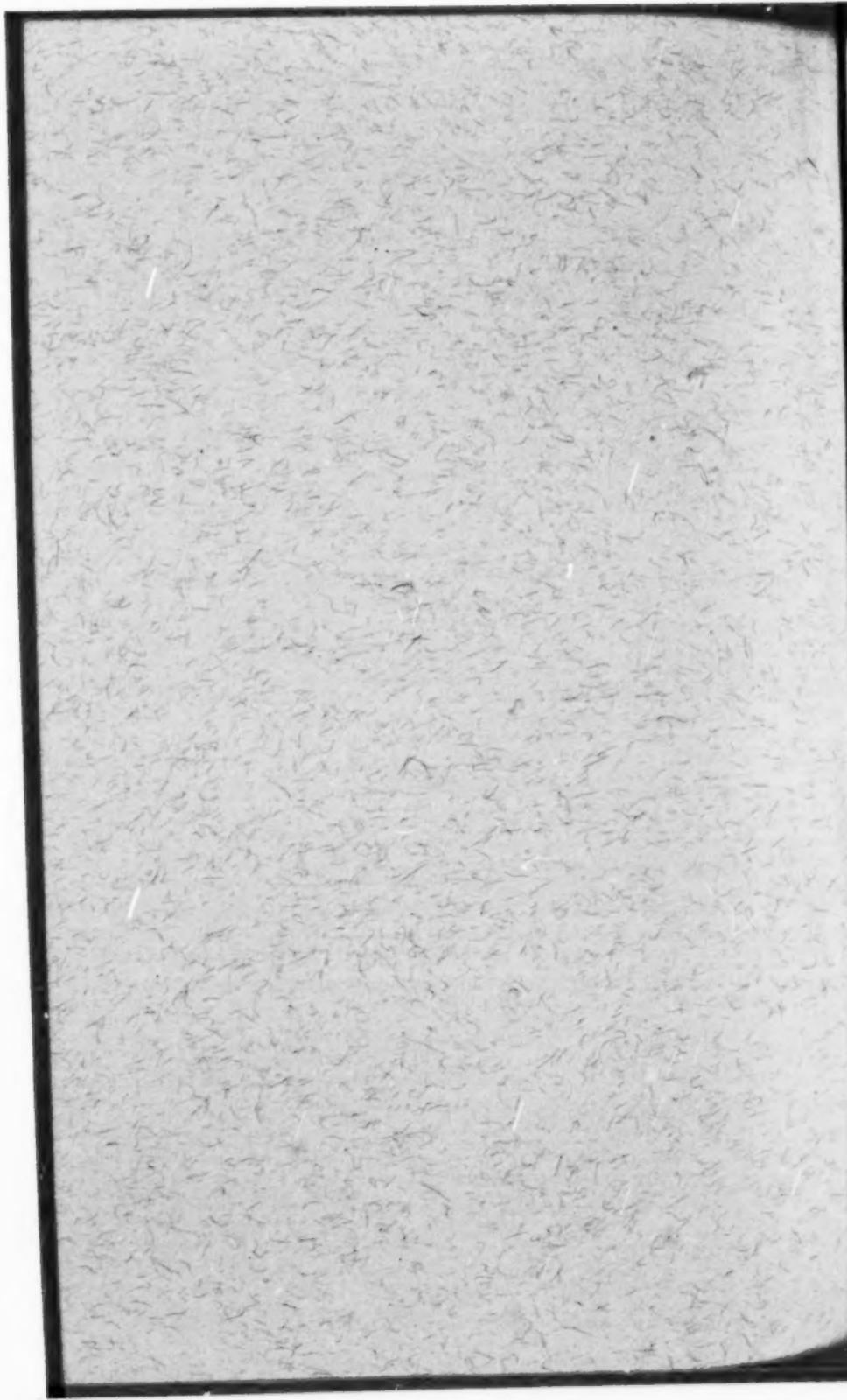
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**RECORD APPENDIX  
TO  
BRIEF FOR PETITIONERS**

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**VOLUME II**

**Testimony, Findings and Opinion and Order,  
and Proceedings Relative to Review  
(Pages 657 - 1296)**



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Whereupon,

C. W. PEARSON

was recalled as a witness and, having been previously duly sworn, resumed the stand and testified further as follows:

*Direct Examination*

By Mr. Vorenberg:

Q. Mr. Pearson, one of your assumptions in the testimony on the individual gas company operations was that if the gas business of NEES is severed, each of the gas companies would operate independently. Is that correct?  
A. Yes.

Q. Would not some other method of operation possibly be more desirable? A. Yes, if more than 50 per cent of the capital stock of each company is owned by the same single interest, the eight companies may be included as joint insureds under the same insurable risk.

[1463] Q. Did you make an independent study of the estimated insurance cost for a combined gas company operation of these eight companies? A. I did.

Q. What was the result of this study? A. This study showed that the resultant annual premium cost would be increased approximately \$154,500 over the premiums the individual eight gas companies are now paying under the NEES blanket policies.

Q. How does this compare with the insurance cost under the independent company operations about which you testified in your earlier appearance? A. As I stated in my earlier testimony the total increase in cost for the individual company operations would be approximately \$281,300. This compares with approximately \$154,500 increase for a combined operation, or a net reduction in annual increase in insurance premium costs of approximately \$126,800.

Q. Mr. Pearson, have you prepared a tabulation which shows the reduction on a system basis in insurance costs You understand that. When we worked on the gas com-

if the eight gas companies were combined after severance rather than being severed on an independent company basis? A. Yes, I have.

Q. I show you a sheet entitled, "Gas Company Data Re: Insurance Coverages in Effect (Except Group Annuity)" [1464] and ask you to tell us what this sheet shows. A. This sheet lists in the lefthand column the various forms of insurance which are in effect for NEES gas companies. The next two columns show for the year 1958 the actual coverages of NEES system gas companies and the aggregate costs of these coverages. The next two columns show the same thing on the assumption that the eight gas companies were severed from NEES system but were operated on a combined basis with the majority of the voting stock owned by the same interests. The third column shows the coverages for the gas companies and the estimated aggregate cost on an independent company basis after severance from the NEES system.

Q. I gather then that the last two columns in effect is a composite of what is shown in the eight sheets for the gas companies on an independent basis included in Respondent's Exhibit 89. A. Yes, that is correct.

Q. And I also assume that the figures on the line labeled "total" are the total costs of insurance coverages on each of the three bases. A. Yes, that is correct.

Mr. Vorenberg: Mr. Hearing Examiner, in view of the relationship which we have established between this proposed exhibit and Respondent's Exhibit 89, I suggest that [1465] they be admitted in evidence in conjunction with one another and that these two sheets be admitted as Respondent's Exhibit 92.

Mr. Nowlin: Mr. Examiner, I am not going to object but by my failure to object I do not concede the probative value that Exhibit No. 89 has and I reserve complete freedom to attack or move to strike later.

Hearing Examiner Ewell: Now was Exhibit 89 received?

Mr. Vorenberg: It was not received. You deferred judgment on that yesterday morning.

Hearing Examiner Ewell: Do you want to discuss that now? What is your position regarding Exhibit 89, Mr. Nowlin?

Mr. Nowlin: Well, my problem stems, Mr. Examiner, originally from the fact that all of these exhibits were related to individual companies; in other words, if they had not directed the testimony to the issue of whether or not it was a single system gas company. I still have a lot of trouble with this but since this is one isolated exhibit and the exhibit which they are now proposing to offer is related, I will not continue further objections to those two particular exhibits.

Hearing Examiner Ewell: In other words, you want them excluded?

[1466] Mr. Nowlin: No.

Mr. Vorenberg: He says he does not object as I understand.

Mr. Nowlin: I am not presently objecting but I am not conceding the probative value. We have not had a chance to examine the documents.

Hearing Examiner Ewell: Well, you are not objecting then, you are not insisting on their being excluded. I have already indicated I thought that they had a general relevance so I am going to receive them on that basis, subject of course to your reservation of the right to question their probative significance. Of course you have a right to do that as to any exhibit, as a matter of fact.

Mr. Nowlin: I would prefer, to have an orderly procedure, to have these exhibits marked for identification until I have had a chance to analyze them and we may find there are objections to them. Or we may find there are qualities

in certain respects which throws out the value of the entire exhibit.

Hearing Examiner Ewell: You can move to strike them later if you want to take a definitive position along that line.

Mr. Nowlin: The disadvantage is of having to move to strike exhibits that are already in the record. [1467] As I say I am not renewing an objection to these two exhibits, I withdraw the objection as far as these two are concerned.

Hearing Examiner Ewell: The record will show here both Exhibits 89 and 92 are received in evidence.

(Respondent's Exhibit Nos. 89 and 92 were marked for identification and received in evidence.)

By Mr. Vorenberg:

Q. Mr. Pearson, could you explain why a single operation of these eight divisions should reduce the premium cost as compared with the total premium cost for eight independent operations? A. Yes, I can. As you will recall in my earlier testimony, I stated that costs for insurance are based on the law of large numbers. A simple indication of this would be under the Comprehensive Crime Coverage.

The total estimated independent company's annual cost is \$20,600. To insure the eight companies as a single operation, the estimated blanket contract annual cost would be \$6,700. The annual difference would be \$13,900.

Q. Mr. Pearson, we have been discussing throughout your testimony the estimated cost for individual company operations and combined company operations. In some cases you have stated that the rates used are based on manual [1468] rates and in other cases you have stated that the rates are negotiated. Can you give us a simple explanation of these statements? A. When I referred to manual rates, I was referring specifically to a manual used by a supervising bureau covering the form of insurance under discussion. This manual contains the rules and regulations for writing the insurance protection to which it

refers and also includes the rates on which the premium is derived. The rate itself is subject to credits and debits based on experience and which may be further modified by special rating plans.

As respects the negotiated rates, this occurs only in those instances where the regulatory bodies do not have jurisdiction and therefore any rate derivation is based on negotiations with the insurer. In this type of rating procedure a great deal depends on the type of risk and past experience, both as respects the individual risk under consideration and the industry in which the risk is.

A further wedge in this sort of rate negotiation occurs when there is a large premium volume involved. In other words, the larger the risk the lower the premium cost is in relation to a measurable item, such as revenue.

Q. Why can't the companies operating on an independent basis combine their insurance requirements and purchase blanket contracts covering their operations? [1469] A. This would not be practicable in that the insurance companies have filed specific rates in the State of Massachusetts and are subject to the manual rules concerning related interests.

Q. What do you mean by "related interest rules" and "subject to a manual"? A. Each form of insurance is under the jurisdiction of a supervising bureau. This supervising bureau issues a manual which includes rules, regulations and rates relating to that insurance. For instance, Automobile Physical Damage Insurance is under the jurisdiction of the supervising bureau, "National Automobile Underwriters Association." The related interest rule under this coverage reads as follows:

"Automobiles of an individual, partnership, firm or corporation, or more than one partnership if one individual has a majority ownership in each partnership or more than one corporation if the insureds

parent corporation has a majority ownership in each subsidiary corporation."

This wording specifically requires that only automobiles under one ownership may be scheduled in a single contract for rating purposes.

The Comprehensive Crime is subject to the supervising bureau "The Surety Corporation of America."

Workmen's compensation is under the jurisdiction [1470] of the supervising bureau "National Council on Compensation Insurance." Under the ruling of the manual issued by National Council it states that two or more risks shall not be combined for rating purposes unless the same person or group of persons or corporations owns a majority interest.

Liability Insurance is under the jurisdiction of the supervising bureau "National Bureau of Casualty Underwriters" and their ruling is that allied or subsidiary interest shall not be included unless the insured holds the majority and financial interest therein. The Massachusetts Automobile Rating & Accident Prevention Bureau is the supervisory bureau for automobile liability insurance. Here again the ruling is that a combination may be made if the same person or group of persons or corporation holds a majority interest in the corporation.

Q. Have you made any effort to break down the increase in cost by the individual forms or insurance? A. I have, as you will note from the schedule submitted.

Q. Will you discuss each form of insurance and give us the reasons for the increase in premium costs, but first enumerate the areas where there are no changes. A. There will be no difference in premium cost under the unified company operations as respects Destruction of [1471] Valuable Papers, Water Heater Warranty Bond, Direct Damage Gas Explosion, Extra Expense Insurance, Fire,

Extended Coverage and Vandalism and Malicious Mischief,  
Rents, Insurance and Sprinkler Leakage Insurance.

Q. Would you please discuss the other coverages? A. Under the Automobile Physical Damage Insurance, it was necessary to make a rerating. Taking advantage of as many credits as possible, we determined a resultant rate of forty cents per \$100 of value. On the basis of this new rate the insurance cost under this coverage would increase by approximately \$900.

Q. Please continue. A. The next individual coverage is the Comprehensive Crime section of the bond coverage. In my earlier testimony on the eight individual gas companies I discussed the difference in cost. I stated that we made use of all credits possible but did not include coverage for open stock burglary. For reasons given before, there would be no coverage on open stock.

The combined gas company combined operation could purchase the remainder of the coverage under this Comprehensive Crime for an annual additional cost of \$6,140.

As a matter of interest, if you were to insure the open stock burglary, and my figures did not include this assumption, the annual cost to insure this exposure [1472] would be approximately \$7,700.

Q. Do you consider the Comprehensive Crime Insurance protection, excluding the open stock burglary coverage, necessary? A. Yes, sir, for the same reasons given in my testimony on the individual companies.

Q. Will you please continue with your review of the schedule? A. Yes, sir. The first form of insurance under the heading "Casualty Insurance" is Workmen's Compensation. In computing the premium for the over-all companies combined we were in the position of looking backward and knowing what the companies were and what had occurred in the year 1958. Therefore, on the basis of 1958 Workmen's Compensation losses it was evident that a

retrospective plan could be applied to the benefit of the combined gas companies' Workmen's Compensation Insurance program.

The increase in cost based on this retrospective plan would be \$5,800. However, if the experience during the year 1958 had been poor, the increase in cost could have been \$50,300. In other words, the application of the retrospective plan will allow the insured to enjoy premium savings in the year his experience is good. However, he may also be penalized in the event his experience was poor.

Q. Would you please continue with the casualty program? [1473] A. Yes, sir. The second heading under the "Casualty Insurance" is noted as Personal Injury and Property Damage. This section relates to the possible liability which might be incurred through the operations of the company. The method of computing the premium is similar to that used for the individual gas companies upon which I gave testimony. At that time I stated that the general experience of the eight companies was good, therefore the rates for this coverage on a combined basis does not include the reduction represented by equity and credits and a possible reduction in acquisition costs.

The resultant credit which was computed came to 32 per cent for the over-all combined program. However, to be on the conservative side and because of a possible reduction in acquisition cost we have used a credit of 18 per cent as being equitable. The resultant annual premium increase for this coverage is \$102,600.

Q. Please continue with your description of the casualty program. A. The comments I made concerning the individual companies on the Automobile Bodily Injury and Property Damage Coverage will likewise apply here. We averaged the credit for those companies which would be subject to a credit which resulted in a figure of 18 per cent. Again [1474] to be conservative this coverage premium is

computed on the basis of 30 per cent and results in an increase in the premium cost of approximately \$25,300.

Q. Please continue. A. The excess of Primary Coverage which provides additional limits of liability in order to take care of the catastrophe coverage is the next item under "Casualty Insurance." This coverage uses annual revenue times a rate in order to arrive at a premium. Proper negotiations should develop the equitable rate of twelve cents per \$100 of revenue for a three year contract. This rate applied to the annual revenue would result in an increase in premium over that paid under the NEES program of approximately \$6,700.

Q. Would you please continue with the rest of the schedule? A. The next section is headed "Explosion Insurance" under which there appears the coverage "Boilers, Air Tanks, et cetera." This coverage as I stated in my earlier testimony provides insurance protection for explosion of boilers, air tanks and other pressure vessels. On the basis of a combined operation the annual increase in premium cost would be approximately \$1,800 over that paid under the NEES program.

Q. Would you please continue? [1475] A. The last coverage to be discussed under this schedule of insurance is the Group Life, Accidental Death and Dismemberment and Accident & Health. My prior testimony on the individual gas companies covered this subject quite thoroughly. While the estimated cost for the gas companies combined is greater than that of the NEES blanket policy, it does show a substantial reduction of retention required by the individual programs for the gas companies. This retention increases by approximately \$5,300 over the retention paid under the NEES program.

Q. Mr. Pearson, having now explained the Exhibit 92 would you kindly summarize at this point? A. It is quite evident from my studies that the NEES insurance program

provides broad form insurance protection to all of the companies included for coverage thereunder of which, of course, the gas companies are a part. In the separation from this blanket program and being subject to purchasing insurance on their own, the gas companies would have great difficulty in obtaining adequate coverage and would as shown on Exhibit 89 which I have described be subject to substantial increase in rate. Even if the gas companies were a combined operation, while the coverages would be somewhat similar, there would be some areas of "no coverage" and they will still be confronted with paying an approximate additional cost of \$150,000.

[1476] Mr. Vorenberg: We have no further questions of Mr. Pearson.

Mr. Nowlin: Mr. Pearson, I notice under the heading "Casualty Insurance, Workmen's Compensation" the term "statutory." What do you mean by that?

The Witness: It is under the statutory laws of the State of Massachusetts where they have certain benefits to be paid and they are stated in the Labor Department and they have all those amounts.

Mr. Nowlin: Do you know whether or not Massachusetts law requires a company to carry any of these insurance coverages listed on Exhibit 92?

The Witness: Well, they do require the Workmen's Compensation unless they file as a self-insurer. The rest of the coverage is for their own protection. They can buy it or do without it.

Mr. Nowlin: That is all I have at the present time, Mr. Examiner.

Hearing Examiner Ewell: All right, the witness is excused at this time.

Mr. Quarles: At this point I would like to recall Mr. Quig.

Hearing Examiner Ewell: Mr. Quig.

[1477] Whereupon

ROBERT S. QUIG

was recalled as a witness and, having been previously duly sworn, resumed the stand and testified further as follows:

*Direct Examination*

By Mr. Quarles:

Q. Mr. Quig, you have heard all the testimony which has been given in this proceeding by the representatives of the NEES System as well as the testimony of the EBASCO representatives, have you not? A. Yes.

Q. The EBASCO representatives have described in considerable detail their own participation in the preparation of the EBASCO Report which was offered as Respondent's Exhibit 58 and the Supplemental Report received as Exhibit 91 during your earlier testimony and have fully described their studies in connection with this Report. In your original appearance you told generally of your responsibility as the chief EBASCO representative. Will you now tell us in somewhat more detail about your role in the preparation of the original report and the Supplemental Report? A. That is a big order. It is a little like asking the engineer in charge of the construction of a large building what his role was in the job.

First let me add just a few words as to our [1478] staffing of this job.

Q. All right. A. As I have said earlier, the individuals from EBASCO who have testified are only part of the team who actually worked on this project. And in addition, the entire EBASCO organization whose man power and resources I have described were made available for consultation where appropriate. Not counting people who worked sporadically or for relatively short periods of time on it or clerical and stenographic staff, there were a total of fourteen members of our organization deeply engaged

in the work on this study. And even without bringing our figures up to date for work done in the last few days, my records indicate that more than 4,500 man hours have been devoted by our people to this job.

The reason for the extent of the work is obvious. You simply do not study an organization with as many facets as the NEES System and project in detail a drastic reorganization of a very important part of its business without an expenditure of this sort of effort.

Q. Against this background, would you now give us an idea of what you yourself did in this study? A. As I said, like the chief engineer in a building project, I participated at all levels. I was in on the initial meetings a year ago this spring during which the [1479] scope and plan of our study was mapped out, as well as subsequent meetings in which the plan was evolved and developed as the job progressed. I worked with our own people and with the NEES representatives in determining what materials and information we should have as the starting point for our work. I worked closely with each of the individuals who were in charge of particular areas at all stages of their work.

Q. I assume that does not mean that you duplicated each of the studies and other efforts of your team. A. Of course not. Once the pattern of our study was established, our specialists in various areas, in conjunction with their counterparts in NEES, did the spade work. At various stages questions of coverage and other matters arose and I was consulted. As the facts and pro forma data emerged, I reviewed them with our own people and with NEES personnel.

Q. Describe the nature of these consultations. A. Since this work covered the full period of time from the beginning of our study until we put the covers on the report, it was obviously of a different nature at different times.

At the outset the questions and problems were more in the nature of how we should proceed, what type of an organization the pro forma gas companies should have, and what data we needed in reaching conclusions [1480] concerning these pro forma organizations. This sort of problem continued throughout the study.

In addition, as various sections of the report began to take form, I reviewed them both with EBASCO personnel and jointly with the appropriate NEES personnel to test our projections and estimates. Where we felt further work needed to be done, it was done.

Q. To what extent are you familiar with the present NEES operations and organization? A. I would say that I have a solid familiarity with all phases of the present NEES organization and operations which have any bearing on this particular case.

Q. Do the pro forma organizations and figures as set forth in the instrument marked for identification as Respondent's Exhibit 58 reflect your conclusions and those of EBASCO as to what would be required if the NEES gas companies were severed from the System and operated as independent units and do the pro forma organizations and figures shown in the Supplemental Report reflect EBASCO's and your conclusions with respect to the combined operation? A. Yes, they do. As the EBASCO representative who is in charge of this project and also deeply involved in it, I take full responsibility both on my own behalf and on behalf of EBASCO as a firm for what is set forth in both [1481] the original EBASCO report and the Supplemental Report. I might add that the report does not reflect all our conclusions, but just those relative to the pro forma organizations and the dollar effect of severance of the gas companies from the NEES System. We have not set forth there our views as to the very serious intangible effects of severance.

Q. Mr. Quig, I think it would be helpful if you would briefly review the important areas involved in the EBASCO study and tell us how you have reached your conclusions with respect to each. A. I will be very glad to do that, sir.

Q. Will you first give us your views with respect to the executive, administrative and staff personnel costs which are reflected in Part 2 of each of the gas reports? A. This obviously is one of the most important areas of our study and, therefore, one to which I have paid close attention. Mr. Simes has already testified as to how the estimates reflected in this section of the reports were arrived at. We considered in detail just exactly what type of executive and administrative staffing would be necessary for each of these companies in order for them to render service at a level comparable with their present operations and we made a similar analysis on the combined basis.

The staffing of operating utilities is an area [1482] in which EBASCO has had a great deal of experience. The EBASCO team on this case has supplemented their own knowledge by consultation with others in our organization and comparative figures of other gas companies.

It is our judgment that the organization we have projected in each instance represents the minimum organization both in terms of the number of people and compensation which could carry on the business of each of the companies involved and render service at the standards currently deemed necessary.

Q. Mr. Quig, why do the pro forma organizations for the Gas Companies shown in the various sections of the EBASCO Report show substantial increases in personnel? A. That is part of the price of severance. Currently through the medium of the Gas Division, the utmost utilization is made of manpower at the Executive and Administrative staff level for the benefit of all eight Massachusetts Gas Companies. With severance these functions would

still have to be performed but no longer could the same degree of utilization of Executive and Administrative manpower be achieved.

Q. Will you now give us your views on the Treasury and Accounting sections of the report? A. As the testimony that has already been introduced shows this is another area where there would be a [1483] major loss of economy both on the independent company and the combined basis. Because of the extent to which the present district treasury organizations of NEES are close-knit integral units performing treasury and accounting services for the companies in their areas, it required a great deal of study on our part to determine what would happen on severance. As he has indicated, Mr. Johnson in collaboration with the NEES treasury people has given this matter the most intensive study.

I have been over this ground with Mr. Johnson many times and have worked with him in arriving at the findings expressed in the EBASCO report and the Supplemental Report. I am satisfied that the pro forma organizations for performance of the treasury and accounting functions are in each case conservative yet efficient and economical.

Q. Mr. Quig, from what has been said by earlier witnesses I gather that some of the increased costs for personnel in the executive and administrative areas and in the treasury area is due to the Service Company's no longer being available to perform specialized services to the gas companies. Why was this assumption made? A. We did not see any basis for assuming that if the gas companies were severed from the New England Electric System that the Service Company which would remain as [1484] part of the System would continue to perform services at cost. Both from a legal and a business point of view that would simply be out of the question; therefore, as far as the gas companies are concerned, NEPSCO would be an outside

service company. It is a matter of speculation as to whether this Commission would permit NEPSCO to provide services to the unaffiliated gas companies. It certainly is not so authorized at the present time.

However, even if it were permitted to perform such services, this would not have a material effect upon our judgments reflected in our projections. This is so because those services which we have assumed could be purchased by the severed gas companies, whether on a combined or independent basis, would in our opinion cost more if purchased from NEPSCO on a profit basis than we have assumed in setting up our projections.

Q. Do I understand then that your pro forma organizations in both reports reflect the result of your having considered for each function what seems to you to be the most economical method for having such function performed including the obtaining of services from outsiders? A. Yes, sir, that is very definitely correct. It should be noted where you talk about having an outside organization such as EBASCO, Stone & Webster or like that, that while these firms have the technical ability to perform [1485] many of these services, an outside organization coming in to carry out specific functions would not initially have the depth or knowledge which is so valuable to making sound judgments and recommendations on individual matters, as compared with the NEPSCO people who now have a full and detailed knowledge of the working of these companies.

Hearing Examiner Ewell: Did you assign any dollar value to the cost of these outside services?

The Witness: No, only as the testimony has indicated concerning certain specific cases.

By Mr. Quarles:

Q. Have you also considered the projections related to space costs which Mr. Simes covered in his testimony?  
A. Yes, I have. I have seen all of the properties involved

and have discussed with Mr. Simes and with NEES people various alternatives as to space utilization and rental of new space which severance would involve. The determination of exactly how a remaining occupant would use space if its companion company moved out is obviously not capable of precise measurement. I am satisfied that the judgments and projections which we have made are sound, conservative, and consistent with service objectives.

Q. Mr. Quig, would you give us your conclusions concerning that section of the EBASCO report which relates to NEPSCO? [1486] A. The problem of figuring the loss of economies which would fall initially upon NEPSCO and secondarily upon the electric companies in the System is, as Mr. Simes has indicated, rather involved. At the date assumed for severance in our reports, that is, January 1, 1959, NEPSCO stood as an organization designed to serve a multiplicity of functions for the gas and electric companies. Each division of NEPSCO was staffed for this purpose with highly trained personnel with detailed knowledge acquired over years of experience of the many intricate operations of the System.

It is obviously not an easy thing to say what would happen in each of these divisions and offices if you removed the gas companies. It requires the type of close examination Mr. Simes has made in consultation with the NEES people concerned as to how and where the work could be reorganized and what parts of the organization could be contracted.

Because of this difficulty we have projected losses of economies to NEPSCO and through NEPSCO to the electric companies only where it seemed to us quite clear that the size of a given portion of NEPSCO could not be reduced. Even that reduction in size of NEPSCO which we have projected in our study would not be possible with-

out impairing its ability to render quality service to the [1487] electric companies.

Q. If I understand you correctly, you are saying that the losses of economies might exceed those that are shown in the last page of the NEPSCO Section of the EBASCO report. A. That is right, and in any event I feel confident that the losses could not be any less than those which are set forth.

Q. Mr. Quig, I notice that one of the largest items of increased expense on either theory reflected in your study is in the area of insurance. You have heard Mr. Pearson's testimony and I would like to hear your comments on this very substantial increase. A. It is inherent in the nature of insurance and the insurance business that there is an enormous disparity in the rates which small and large purchasers can obtain. Mr. Pearson's job with EBASCO is helping utility companies obtain insurance and advising them on insurance matters. What he did in making this study is exactly what he would do if he were given the assignment of obtaining insurance for these eight companies on an individual basis or a separate group. On the basis of the work which Mr. Pearson has done and my review of this work with him I am satisfied that the increased costs which he has projected on each assumption are those which would result.

[1488] Q. Would these companies obtain the same degree of insurance protection for these increased costs? A. No. As Mr. Pearson has pointed out, the coverage which the eight independent companies could obtain individually or as a group—and this is particularly true of the small ones—is considerably lower than the present limits of insurance which protect the gas companies, and consumers and the public now under NEES ownership. I do not think anyone should underestimate the seriousness of forcing these com-

panies into a position where they simply cannot obtain the levels of coverage which are now available.

Fortunately accidents happen rarely in this industry, but unfortunately when they do happen they are often of serious proportions. I would be very concerned both from the point of view of the financial stability of the company and the interest of gas consumers, as well as from the point of view of claimants among consumers and the public, to see the gas companies deprived of the upper limits of their coverage.

I do not think it needs elaboration that we are in a period of increasing jury awards and settlements for personal and property injuries and these are days when we are advising our clients to increase rather than decrease their insurance coverage.

Q. Mr. Quig, in addition to the area that I have [1489] asked you to summarize since you returned to the stand, there are other increases in costs reflected in the EBASCO report which the other EBASCO witnesses have covered. Without going into detail, would you summarize your views on these. A. I assume you are referring to such items as production, distribution, utilization and garaging; transportation; professional services; and other miscellaneous items.

Q. Yes, that is correct. A. The basis on which these increased costs have been set is the same as those which I have already discussed. For example, I have reviewed with our people and with the NEES representatives the type of utilization staff which would be required by each of these gas companies if they had to operate alone or as a separate group.

Q. What standards were used in preparing the projections? A. It is possible to estimate within a general range how much work a man can do in a given working day. Of course this depends on the nature of the work and the

area. Based on our experience and on comparisons with other companies in this area and taking into consideration the variable factors applicable to each situation, we [1490] projected the conservative number of people who would be needed to handle such things as reading-in and reading-out meters and clerical work on meter records. A similar process was used with respect to garage facilities and other similar functions.

Q. How about transportation? A. The figures reflect such additional vehicles as we considered absolutely essential. You can argue all day as to whether you could save money by cutting out one of these cars and using taxis or other means of transportation. On this I can only say that we have given careful thought to such questions as this, and I am satisfied that our projections are reasonable.

Q. Mr. Quig, you have expressed your views for us on the effect on the gas companies of severance from the New England Electric System and explained to us the basis for your conclusions. I would now like to turn with you to the effect which the gas companies' severance would have on the electric companies which would continue as part of the NEES System. I understand from the testimony which has been given that the principal effect of severance on the electric companies would naturally enough be in those areas where gas and electric functions are carried on jointly.

Mr. Nowlin: Mr. Examiner, I am going to object [1491] to any testimony along the line Mr. Quarles is indicating. I have quoted before in the record from the Philadelphia Company case the Commission has held that the losses to the electric system would not be relevant to the issues involved in this proceeding.

Now since we had the previous discussion I have gone to the pains of looking up the history of the Louisiana

case and I note that even after the decision by the Fifth Circuit Court of Appeals the Commission indicated in its brief in the United States Supreme Court that it was not accepting the decision of the Fifth Circuit. Therefore, since four of the five Commissioners who were party to that brief filed in the Supreme Court are now present Commissioners, I think they are holding the Philadelphia case has been sustained by the Commission. Therefore, this line of testimony would be irrelevant.

Mr. Quarles: I would say, sir, that it is not a proper conclusion from the fact that the Commission wished to urge a different view on the Supreme Court; that until the Supreme Court or the Circuit Court had changed the rule made in the case in question by the Fifth Circuit Court of Appeals the Commission would not follow it. In other words, I can well imagine the Commission asking the Supreme Court to take a different view, but unless and until the Supreme Court did take a different view or the Fifth [1492] Circuit reversed its previous decision it would seem to me that stands pretty much as the law of the land and I would expect this Commission to go along with it.

In any event it seems to me that this is relevant. We have had the ruling before permitting evidence of this kind to come in. Mr. Nowlin has reserved his right to argue against it either as to its relevance or its weight. I urge on you that this evidence that we are now offering is entitled to admission.

Mr. Nowlin: I would like to point out my disagreement with Mr. Quarles. The Commission does have a decision sustaining its interpretation of the substantial loss in the Philadelphia Company case. That was a Circuit Court of Appeals decision. Subsequently in its brief to the United States Supreme Court this present Commission has verified or restated, as I put it, its position that it took in the Philadelphia case that was sustained in the Circuit Court.

I interpret it that this Commission still asserts that this line of testimony is not relevant.

Hearing Examiner Ewell: Well, supposing the Supreme Court sustained the Circuit Court decision?

Mr. Nowlin: That would be a different question.

Hearing Examiner Ewell: On that point then you might have to reopen the hearing to take this testimony.

Mr. Nowlin: The Supreme Court did not sustain.

[1493] Hearing Examiner Ewell: Has the Supreme Court passed on it yet?

Mr. Nowlin: No, and our brief said it would not have to pass on it; that if they decided the procedural question, they would not have to get to the subsequent question on the cost of economies.

Hearing Examiner Ewell: I think as I have indicated before there is enough doubt on the situation to let it come in. As I said before if the law should be changed it might necessitate reopening this case. It is already in, it has been placed in the record.

Mr. Nowlin: Well, it was placed in the record without the supplemental information which I am supplying this morning.

Hearing Examiner Ewell: Well, do you want to have it all excluded? Is that your motion, you want to exclude it?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: You want to strike it out?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: That would strike out a substantial part of the case, would it not?

Mr. Nowlin: No. I am in effect moving to strike what has already been put in and I am objecting to [1494] anything further going in.

Mr. Quarles: I would urge that the amount is not really important, the principle is. With the case still open

for the Supreme Court to pass upon we claim to be entitled in this case to put in the necessary evidence, to permit us to try it in court, and in any event to present it before this Commission for a review of its previous positions and for a decision.

As you have pointed out, to include it prejudices no one's right; to exclude it would result in the event of our ultimately prevailing in a court in our having to come back and try the whole case over again. At the end of presentation of this kind of testimony, to add a little more would do no harm and the striking out could be serious.

Mr. Nowlin: If you took an appeal to the Supreme Court and the Supreme Court should reverse and go up on a legal question, I don't see that the evidence in the record would have anything to do with the appeal in the Supreme Court.

Hearing Examiner Ewell: Well, it might not have anything to do with the appeal but it might have something to do with the Commission's view of it.

Mr. Nowlin: If the Commission should reverse itself, then I assume it would have to take the evidence but I don't know why we should assume the Commission reverts [1495] itself when it had four of the present five Commissioners, and in a brief to the Supreme Court asserted its holding in the Philadelphia case.

Hearing Examiner Ewell: Get back to the question. Read the last question.

(The pending question was read by the reporter as follows: "Mr. Quig, you have expressed your views for us on the effect on the gas companies of severance from the New England Electric System and explained to us the basis for your conclusions. I would now like to turn with you to the effect which the gas companies' severance would have on the electric companies which would continue as part of the NEES System.

I understand from the testimony which has been given that the principal effect of severance on the electric companies would naturally enough be in those areas where gas and electric functions are carried on jointly?"")

Hearing Examiner Ewell: I understand your motion now, Mr. Nowlin, is to strike all the previous testimony that bore on the question of the loss of economies that might be sustained by the electric companies, is that right?

Mr. Nowlin: Mr. Examiner, I object to the testimony going in on the subject. You have read into that a motion to strike and I assume if you were sustaining on [1496] my objection to this evidence then my next move would be to move to strike.

Hearing Examiner Ewell: It seems to rest on the same footing.

Mr. Nowlin: Sir, the only thing I did at this point was to object to testimony going in. If you had sustained that, then I would move to strike any testimony that is presented in the record on this same subject.

Hearing Examiner Ewell: Well, I am going to take it subject to that and reserve ruling on it. I can see that you have put up a powerful argument in view of the situation that you have cited with reference to the position taken in the briefs so I want to have a little more opportunity to consider it. I want to take it now with the understanding that I will reserve on that question, rule on it at a later time.

Mr. Quarles: Do I understand you are accepting the evidence and we may have the witness answer the question?

Hearing Examiner Ewell: That is right.

By Mr. Quarles:

Q. Would you answer the question, Mr. Quig? A. That is correct, except of course that the removal of the gas

companies would, as I have mentioned, leave it up to the electric companies to carry alone the [1497] cost of the Service Company.

Q. I understand that, and I propose to ask you to come back to that shortly. First, I would like to have you indicate the basis of your conclusions with respect to the direct effect on the electric companies. A. The five sections of the EBASCO report appearing from pages 901 to 1320 of our report describe the effect on the five electric companies whose operations are carried on jointly with companion gas companies. As an examination of the report will reveal, the degree of joint operation varies from area to area, and obviously enough the impact on the electric companies likewise varies. Subject to these variations in particular cases, the pattern of the effect of severance on the electric companies is generally the same.

Q. Would you elaborate on this, please. A. The largest single increase in cost falling on what I will call the companion electric companies is in the area of customer accounting and collection.

Hearing Examiner Ewell: The reason I wanted to reserve on this question is that I would like to have the opportunity to read this brief that Mr. Nowlin has referred to before I rule on it.

Do you have it there, Mr. Nowlin?

Mr. Nowlin: Yes.

[1498] Mr. Quarles: May we have an opportunity also to submit a memorandum on the subject?

Hearing Examiner Ewell: You mean a written memorandum of your own?

Mr. Quarles: Yes, sir.

Mr. Nowlin: That may not be necessary.

Hearing Examiner Ewell: At what time?

Mr. Quarles: Before you rule to strike any evidence.

Hearing Examiner Ewell: Well, that seems like a rea-

sonable request, but I would like to read the brief first. As Mr. Nowlin said, it might not be necessary.

Mr. Quarles: I would still urge that a position taken in a brief does not carry the same weight as a decision of the Commission or a decision of the court, and that the Commission could well ask for a different interpretation of the law but unless and until it got a different interpretation would regard the decision of the Fifth Circuit as controlling.

There are also in this case facts that may cast a very different complexion on the whole question. Each of these questions of relevance has to be examined in context.

Hearing Examiner Ewell: That seems reasonable, so I would like to hear from you on that.

[1499] Mr. Quarles: Thank you.

By Mr. Quarles:

Q. Mr. Quig, would you continue with your answer?

I think perhaps it would be clearer if we went back to the question when I had asked you to elaborate on your previous statement. A. The largest single increase in cost falling on what I will call the companion electric companies is in the area of customer accounting and collection. The reason for this is obvious. That is an area of work that lends itself to a high level of joint operations whereby manpower and machines can be used jointly on an economical basis.

Q. Are you satisfied that the projected increase of cost in the customer accounting area is what could reasonably be expected in the event of severance? A. Yes, I am, sir.

Q. Would you indicate the basis of this conclusion? A. The process with respect to determination of increased costs of customer accounting for the remaining electric companies was really no different than in assessing the increased costs which would fall on the severed gas companies. We looked at the work which had to be done in

the customer accounting area, and on the basis of our experience in working with other companies and our knowledge [1500] of other companies in the New England area, we set up what we considered to be a conservative organization with which the job could be done.

In making these estimates we of course had the benefit of the experienced estimates of the NEES people presently engaged in the customer accounting operations as one of our guideposts in making our judgment. Then, of course, I relied on Mr. Johnson's wide experience in this field and likewise checked our conclusions with others in EBASCO who are also experienced in this field.

Q. In general, is what you have said concerning customer accounting applicable to the other treasury areas as well? A. Yes, it is. Of course in the general accounting and stores areas the dollar impact was substantially less. But the same standards of judgment and testing were used in arriving at our conclusions.

Q. Why should there be an increase in the administrative and staff personnel costs to the electric companies resulting from severance? A. As an examination of the reports will reveal, the top executive management of the individual electric companies would not be severely affected by severance. The principal effect would come on specific jobs which are handled on a joint basis, such as the increase of costs [1501] resulting from the electric companies having to carry the full burden of individuals who previously performed joint functions as part of the district treasury organization or such jointly shared personnel as safety supervisors and personnel directors.

Q. In making the projections of increased cost in the administrative and staff area, did you follow the same process as was employed elsewhere? A. Yes, sir, we did.

Q. And you are satisfied that the electric companies would in fact have to carry the extra costs you have pro-

jected in order to perform a level of service comparable to the present? A. Yes, I am.

Q. Why should there be an increase in the distribution departments and garages of the electric companies?

A. Here again certain functions have been performed on a joint basis, such as receipt of customer service orders and trouble calls, and here again we had to provide not only the gas companies but also the electric companies with an adequate organization to perform these service functions. There is no doubt that the present joint basis of operation of these functions makes for more efficient utilization of manpower and facilities.

Q. I notice that one of the areas of increased costs [1502] which have been projected for certain electric companies is with respect to rentals. A. That is correct. Mr. Simes has already described in considerable detail the problems which would be faced by both the gas and electric companies in finding new space upon severance.

Q. And in your testimony a few minutes ago concerning the rental area as applied to the gas companies you indicated the basis of your conclusions with respect to the figures which are projected. Is what you said there applicable also to the projected rental costs which would fall on the electric companies? A. Absolutely. It is obvious that it is simply the other side of the coin.

Q. In general, Mr. Quig, would you say that the figures which you have given as the estimated loss of economies resulting from severance are on the conservative or the liberal side? A. Very definitely, sir, on the conservative side.

Q. Will you elaborate that? A. Yes. Because of the nature of this proceeding and the nature of this study, we determined along with NEES at an early stage that we would lean in the direction of conservatism in making our

judgments in the matter of people, salaries, space and the like.

[1503] In the nature of things, if in a study of this size you are generally conservative about all of your projections, you could be quite certain that when the actual organization was set up there would be an increase of loss of economies here and there over those projected, so that your aggregate actual loss would be significantly higher than the projected loss. Obviously this is something that is not capable of exact measurement, and it is for that reason that we adopted a generally conservative standard in making our study. Having done so, we have something that we feel we can stand behind without reservation.

Q. Mr. Quig, turning for a moment from the dollar effect of your conservative estimates, will you tell us what is the general effect which you would expect severance to have on the gas companies, and particularly their stability and quality of service, if the pro forma organization were to become the actual organization? A. The answer to that question moves into the areas of intangibles. As Mr. Cahal has pointed out, the gas and electric businesses of the NEES companies are promoted as aggressively as it is reasonable to assume they would be if they were operating on their own.

In reviewing the entire business, operations and organization of NEES and its constituent companies, [1504] we reached the definite conclusion that there are no significant benefits which would flow to either the gas or electric companies from separation of the gas companies. This being the case, there is nothing of significance on the plus side in the so-called intangible area to be achieved by severance.

Q. What about the minus side? A. The various members of the EBASCO team have already given many in-

dications of what the disadvantages of severance would be which are not specifically measurable in dollars. By way of example only, Mr. Pearson has pointed out that, dollars aside, the smaller gas companies on an independent basis simply would not in many instances be able to get the insurance coverage they now have. Mr. Johnson has pointed out that the convenience to consumers of having one meter reader, one place to pay bills, one check and one envelope, would disappear. Mr. Simes has pointed out that the talents of top management on broad policy questions which is now available from NEES and from the gas division simply would not be available to the gas companies on an individual basis, and certainly not at the salary levels we have projected.

While some of this could be obtained from outside consulting firms, it is very clear to me that the close familiarity which the top management now has with [1505] the problems of all the companies is an essential ingredient in their ability to provide policy direction, and there certainly could not be a complete substitute for this from outside sources. Also it should be noted that the projected loss of economies does not include any figure for such outside consulting services.

Q. Are there other intangible disadvantages resulting from severance? A. Yes, there are many. The testimony which has been given both by the EBASCO witnesses and the NEES System witnesses amply suggests what these are, and I think by and large they are obvious. In general, I think it can be said that these gas companies operating on their own under New England competitive and economic conditions could not fully achieve the level of service of their present operations and would not have the strength that they now have both in terms of long-range planning and the ability to meet the vicissitudes of the future.

Q. To what extent would severance result in non-recur-

ring costs not shown in your report? A. Well, the biggest of these is what Mr. Johnson has referred to; namely, the cost of physical separation of basic customer records, including meter reading, customer history and many other data. It is no small matter both in terms of cost and inconvenience to separate and move operations [1506] that are as closely united as these treasury and accounting functions.

Again a review of the testimony which has been given and of our report will, I am sure, amply demonstrate that there would be enormous non-recurring costs which would have to be amortized against the future operations of these individual companies. These costs and their amortization are not reflected in any of the figures of these reports.

Q. Do you have any idea as to what they might amount to? A. Mr. Johnson has already indicated something of the order of some \$200,000 or \$250,000 in the accounting area. My own guess is, looking at all of the costs together, that it might be something in the area of one-half a million, perhaps considerably more.

Q. What about other dollar losses not reflected in the report? A. There are many items not capable of estimation with the same level of accuracy as shown in our report. Perhaps the most obvious of these is in a function such as purchasing. We are certain, and again it is simply a matter of common sense, that there would be significant dollar losses to the gas companies from the loss of centralized purchasing.

[1507] Another similar area is the loss of efficiency in the treasury and accounting areas resulting from the individual companies being unable to afford a Systems and Methods staff department. These are only two examples. The record is replete with many others.

Q. Mr. Quig, I show you a one page sheet entitled "New England Electric System, Gross Income of Affiliated Gas

Companies, Before and After Severance of Gas Business, Twelve Months Ended December 31, 1958." Will you explain this exhibit to us? A. There are five columns on this tabulation with Column 1 listing the gas companies of the NEES System. Columns 2 through 5 show the effect of severance assuming independent separate operation after giving effect to Federal Income Taxes but before Interest and Dividends. As the title describes, this is a "before and after" tabulation.

By "before and after" I mean this shows for the individual companies for the year 1958 in Column 2 the gross income position as it was under the present method of operation or before severance; in Column 3 the gross income position as it would have been pro forma or after severance; and in Columns 4 and 5 the difference in dollars and per cent reduction in gross income that would have been caused by severance.

Note that the dollar totals in Column 4 are the [1508] same as the adjustment to gross income figures shown in Respondent's Exhibit 59.

After application of Federal Income Tax, the over-all effect of the severance of the gas business as related to gross income "before" severance would have been to reduce the gross income of the companies as follows: eight gas companies, \$957,600 or 31.4 per cent. The decreases in gross income range from \$15,000 to \$273,100 and percentage-wise from 21.1 per cent to 63.8 per cent.

Q. Mr. Quig, was this tabulation prepared under your supervision? A. Yes, it was.

Q. Does it correctly set forth the information it purports to show? A. It does, sir.

Mr. Quarles: I offer it as Respondent's Exhibit No. 93.

Mr. Nowlin: Mr. Examiner, I have tentatively a mixed objection here. I concede that the effect on the individual companies may eventually have some remote relevance if

it should be determined that one of them could not constitute a part of a single integrated system, but these computations reflect results after the application of income tax rates. That is consistent with my previous objection and the Commission's prior holding that the tax effects are [1509] irrelevant. I am going to object to the exhibit on the ground just stated.

Mr. Quarles: I think Your Honor has ruled on both of those objections in connection with the offering and receipt of earlier testimony. I believe Mr. Nowlin has a standing objection to evidence relating to the individual companies. I confess that I cannot understand his position on it because in any event and on any interpretation it is relevant to the initial determination of the status of these companies as a part of the present system.

We must present evidence showing whether there would be loss of economies if each one were separated from the system before it can be determined that they now constitute a part of the integrated system or that any combination of them constitute an integrated system.

Mr. Nowlin: As I indicated, Mr. Examiner, my principal objection is that it shows statistical information after the application was in practice and I say the Commission has held that the consequence of income taxes is not relevant to the question of whether the loss of—

Hearing Examiner Ewell: What case do you cite on that point, Mr. Nowlin?

Mr. Nowlin: The City Service case. In fact, I think there were three of them. The City Service case and the Federal Light and Traction case, and I am not certain [1510] whether it is in the Philadelphia Company case or not but I think it was.

Hearing Examiner Ewell: Will you give me the exact citation of those cases?

Mr. Nowlin: Yes, sir, I can.

Mr. Dunn: Mr. Examiner, if I may interrupt I think this admission of the tax testimony was one that I was handling. I believe I expressed before that these holdings by the Commission were back in the 1940's, in the early 1940's. I expressed the belief that we have had another fifteen years of experience since then, consolidated tax savings have become a fact of life and have now been worked into the rate structures of the gas companies around the country in general and specifically in Massachusetts.

I don't believe I pointed out before, and I would like to do it now, that the consolidated tax return is available to companies such as NEES beginning in 1941. So you can see in the early 1940's this was a new situation and had not become a well established fact of life.

So I would urge that these earlier cases that Mr. Nowlin is referring to are not applicable at this time. We must look at changed circumstances. I believe that this consolidated tax evidence is relevant to these proceedings.

Hearing Examiner Ewell: This is a matter that was brought up before and I think I received the evidence and I [1511] was persuaded into doing that largely by the fact that these tax considerations are considered and weighed in the rate proceeding.

Mr. Nowlin: Mr. Examiner, I think that would be applicable to any loss. Congress must have recognized when it passed this Act that there were bound to be some losses in severance in terms of substantial losses.

Hearing Examiner Ewell: Yes, but I thought it went to the weight. Even though there may be losses I think the amount of loss is certainly relevant and material when you have to add them all together. I mean it just isn't one loss, it is the sum total of losses. It seems to me that is the deciding element.

Mr. Nowlin: There is no question but what that question must have been urged upon the Commission in that

it took it up and discussed it. It said this was not the type of a loss that was encompassed in the terms of substantial economies. That appears in Section 11.

Now the fact that there has not been any change or apparently any attack on those decisions would indicate just the reverse of what Mr. Dunn says; namely, that it was good law then and it has—

Hearing Examiner Ewell: Do you want to move to strike all that testimony, too, regarding tax? I don't see if this does not come in why the other should not go out also.  
[1512] Mr. Nowlin: I am objecting to this exhibit on the ground that it is misleading.

Hearing Examiner Ewell: What about all the other evidence? It seems to me that something more substantial, a little more substantial—I don't want to characterize it but it seems to me there is more evidence on the losses due to tax considerations than this exhibit indicates.

Mr. Dunn: That is correct.

Mr. Nowlin: I think the same information is in the EBASCO reports. I am certainly going to object to that.

Mr. Dunn: Mr. Nowlin was suggesting that this matter that I had stated was probably argued to the Commission back in the 1940's. I would just like to add that the consolidated tax return was such a new thing at that time I doubt if the state commissions had had much opportunity to consider whether the consolidated tax savings should or should not be considered in rate cases. They have since evolved these principles so that I doubt if this has been fully presented to the commission.

Hearing Examiner Ewell: This Commission is bound by the attitude taken by the state regulatory commission on rates.

Mr. Nowlin: Mr. Examiner, that is not the question. I think we are off base here. It is not a question of whether these taxes go into the rates, it is a question [1513] of

whether or not the tax losses are a part of the substantial losses that are mentioned in the Act. I assume any operating expense, legitimate expense would be a proper argument in the rate making point. I would assume that taxes—I am not an expert on rates but the one thing I seem to recall is that for years and years and years taxes are one item that have been acclaimed in rate proceedings and permitted. There is nothing new about taxes being included in the rate basis as far as I know. As I say, I am not an expert.

Mr. Dunn: Sir, I am not quite sure whether Mr. Nowlin is stating that in his opinion a loss to a consumer is not a loss of economy to be considered under Section 11(b)(1) (A). If that is his position, I disagree with him. I think that a loss to a consumer is certainly one that should be considered.

Hearing Examiner Ewell: Of course I am bound by the Commission's holdings in these matters. If the facts fit within the four corners of the decision—that is what I am trying to determine, that the facts here squarely fit within the four corners of the Commission's decisions on the point.

Mr. Nowlin: Here is a special section in this case in the City Service Company. It is headed "Tax Savings as Satisfying Clause A." This was a decision on May 5, 1944. [1514] I have not got the case before me, but I think the Philadelphia Company case was in 1948.

Hearing Examiner Ewell: What does this case say on the subject?

Mr. Nowlin: "It was estimated that filing consolidated returns instead of separate returns would result in savings for 1942 of \$970,000 to Public Service of Colorado, and \$230,000 to the Mid-Continent Electric System, and the future savings expected to result

from consolidated returns are the 'substantial economies' claimed to satisfy Section 11 (b)(1)(A).

"These estimates appear to be based on a continuation of system control over the extractive properties. As we noted however, the oil business cannot be maintained, and the effect of severance of the oil business on tax 'savings' has not been explored.

"It should be noted that these asserted 'economies' have no relation to operational factors, and the extent of the 'economies' depends, not on the type of property involved or the way in which properties are operated, but on the accidents of ownership and the state of tax legislation at a given time. These savings might be present in the case of utility and totally unrelated non-utility properties. To regard such 'economies' as definitive under Clause (A) is to administer the statute in light of temporary and accidental factors."

[1515] Now that is not the case I had in mind, the other case goes beyond the holding in this case.

Mr. Dunn: Mr. Examiner, I don't dispute the statements that Mr. Nowlin is point out from that case and I expect he would find somewhat similar statements in other cases, but I think it is obvious from what he has read the Commission had this evidence before them, that it was admitted in the record, considered relevant, and the entire question is one as to the weight to be given to the evidence. And I think that is equally true at this stage.

Hearing Examiner Ewell: Well, I am going to take a middle-of-the-road position on the matter. The language just read by Mr. Nowlin seems quite dispositive as far as this Commission is concerned. I am going to allow the questions so that they will be in the record and I am reserving it for the time being for that. I have not had enough time to study the question to make a final ruling

on it. I am going to allow the question so in the event that you can prevail with the Commission the evidence will be there for them to consider and for you to argue about.

Mr. Quarles: Thank you, sir. We want merely to get into the record the evidence that is essential for determination of the several issues that have been raised. I would not feel that the language read was by any means dispositive of this particular case because it clearly [1516] related so directly to the peculiar facts; also because apparently from the language read the tax loss was supposed to be the total economy.

Mr. Nowlin: If you want the facts, you better hush. You may lose it.

Mr. Quarles: I merely want our position to be clear on the record. Again I point out that we consider these things to be relevant for examination in the light of the facts of the particular case.

I understand that we may now have the exhibit admitted.  
Hearing Examiner Ewell: Yes, I will receive it.

(Respondent's Exhibit No. 93 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Mr. Quig, I now show you a sheet entitled "New England Electric System - Net Income of Affiliated Gas Companies Before and After Severance of the Massachusetts Gas Business (Assuming Independent Operation of Gas Companies in Twelve Months Ending December 31, 1958)." I ask you what this shows? A. This is comparable to the sheet which has just been introduced as Respondent's Exhibit 93 except that it shows the effect which allowance for interest payments would [1517] have on the figures as set forth in Columns 4 and 5 of that exhibit.

Q. What is the significance of these figures? A. They show the effect which severance would have on income available for the payment of dividends.

Q. Was this prepared under your supervision and does it accurately set forth the information which it purports to show? A. Yes, sir, it does.

Mr. Quarles: I offer it as Exhibit 94.

Mr. Nowlin: Same objection, Mr. Examiner.

Hearing Examiner Ewell: This does not involve the—

Mr. Nowlin: The same problem is involved.

Hearing Examiner Ewell: Involves the same question. In other words, it is dependent on the tax?

Mr. Nowlin: Yes.

Hearing Examiner Ewell: Well, I will make the same ruling on it.

(Respondent's Exhibit No. 94 was marked for identification and received in evidence.)

By Mr. Quarles:

Q. Now returning to Respondent's Exhibit 93, is "gross income" as shown on that exhibit reasonably comparable [1518] to the amount available for return as used by regulatory commissions? A. Yes, it is. The Gross Income or Return is available to pay: Bond Interest; Preferred Dividends, if any; Common Dividends; and something to put aside for surplus.

Q. Are you familiar with the pattern of rate increases that these companies have been permitted by the D.P.U. in the past in order to maintain an adequate Gross Income or Return? A. Yes, I am.

Q. What is the significance of the pattern of these rate increases to this proceeding? A. These companies have sought rate increases from time to time because they were confronted with impairment of their Gross Income position which endangered their ability to render adequate service. The main reason for the worsening of the Gross Income position has been the frequent increases in the cost of gas purchases from the natural gas pipeline companies whose rates are subject to the Federal Power Commission. Of

course, there are other reasons such as the increases in wage rates and in costs of materials and supplies caused by the inflationary spiral.

The fact still remains that the Gross Income position of these gas companies is constantly under the pressure of rising gas costs, and they can ill afford to have their gross income position further impaired by increased costs which would most certainly arise from severance and from the loss of economies that are evident in the present arrangements. Such impairment would almost certainly require retail rate increases.

Hearing Examiner Ewell: All right, gentlemen, at this time we will adjourn until two o'clock for lunch.

(Whereupon, at 12:35 o'clock p.m., a recess was taken until 2:00 o'clock p.m., of the same day.)

[1519]

AFTERNOON SESSION

2:00 p.m.

Hearing Examiner Ewell: All right, gentlemen, let us resume, please.

Mr. Nowlin: Mr. Examiner, before we resume further, I would like to buttress an objection I made just prior to the noon recess to the introduction of evidence on the impact on the electric system. I happened to think at lunch-time of another case in which the Commission in 1951 reaffirmed its prior position taken in the Philadelphia Case. That is in General Public Utilities Corporation, 32 SEC at page 807. The particular quote that I have in mind appears at page 838 and the top of 839, and if you do not mind, I would like to read the paragraph into the record.

"The Company also submitted estimates which purported to indicate the 'loss of economies' to the separated electric company as compared with the electric department of the combination company. We have previously held

that 'losses in economies which may be considered under Clause (A) are limited to those directly related to the additional system sought to be retained,' and not to the principal system.

The Philadelphia Company, 28 SEC 35 (1948) affirmed sub nom Philadelphia Company versus SEC, 177 Fed. Second, 720 (CADC 1949.)

Mr. Quarles: Mr. Examiner, I do not think that anything would be gained by my further arguing the same point [1520] that we have gone over several times. I would just point out two things: First, that apparently relates only to the 11(b)(1) question, and not to the definition 2(a)29, in determining the present status of these companies within the system.

Secondly, that that decision, too, was well before the Fifth Circuit Court decision.

Hearing Examiner Ewell: Why do you say it relates only to the 11(b)(1) question? Won't both be involved?

Mr. Quarles: Not necessarily so, sir. There may not have been any question as to the status of the Company within the system. I do not know whether that was an issue. There may have been only one separate company, or it may already have been determined to be an integrated system.

Here we have the two questions, first, the one that Mr. Nowlin has urged that we consider first, of whether or not these eight gas companies are now a related system. We need, in considering that, I think, to consider every aspect of it.

Hearing Examiner Ewell: I would like to ask Mr. Nowlin if this petition for certiorari in the Supreme Court in the Cities Service Case—whether or not the Supreme Court granted certiorari in that case. It goes back to 1956.

Mr. Nowlin: I am sure it was granted, Mr. Examiner. [1521] Hearing Examiner Ewell: It was not granted.

Mr. Nowlin: I am sure it was granted, because the case was reversed, the Lower Court was reversed on the jurisdictional point. There was no decision reached on the merits of the loss of economies.

That is my understanding. I am speaking not from actual knowledge, but from information from a person who worked on the case.

Another point in this case was not to argue the point, but to substantiate the Commission's holding on the legal principles.

Hearing Examiner Ewell: Well, after reading the Commission's brief in the Cities Service Case, which quite clearly indicates that the Commission considered the question, and still adheres to its position, that the losses to the principal system do not have probative value in these cases, I am impelled to take a different view from what I have heretofore.

I thought, as I indicated before, such losses would be relevant on the broad base of the public interest. But the Commission certainly considered that question, and has evidently cited that these losses simply do not have probative value in a proceeding of this kind.

So I think I am bound by it. I do not see that there would be much point in my making a ruling if it is contrary [1522] to what it is to be in view of the Commission on this question.

And I am now, unless you can put it in a different light from the way I see it now—I am inclined now to grant the motion to strike in both of these instances. The testimony is there. I think you will have to address yourself to the Commission and argue the point before them. But at this level, and at this point, it seems to me I am bound to observe the Commission's policy and decision.

Mr. Quarles: And you refer to in both cases—

Hearing Examiner Ewell: Both on the tax question

and on the losses to the electric utility, that is, to the principal system.

I think they stand on the same footing in principal.

Mr. Quarles: I have previously urged on you that a position taken in a brief would hardly be regarded as necessarily stating the final conclusion of the Commission.

Hearing Examiner Ewell: Well, that may be. But I think it is final so far as the Commission is concerned, as far as their attitude. I mean they say that it is not admissible, or at least it has no probative value. They have held that very definitely.

They are urging that on the other Court.

Now, until the other Court disagrees with that, and makes a definitive ruling contrary to that, certainly [1523] I think it would be binding upon me.

Mr. Quarles: I assume that the brief you are referring to is the one that was filed by the Solicitor General.

Hearing Examiner Ewell: That is right.

Mr. Quarles: And does it appear that that does express the view of the Commission?

Hearing Examiner Ewell: Well, I thought it did, if the Commission submitted it to the Supreme Court.

Mr. Quarles: The Solicitor General, I think, is the one who does that, undoubtedly, in collaboration with the Commission's Counsel. And this was joined in by the Commission's Counsel. But it is hardly sufficient to warrant the assumption that it was a decision by the Commission that they won't recognize a Circuit Court decision.

Hearing Examiner Ewell: Well, I think that is rather a technical point—it may be. But I cannot believe that the Commission would—I cannot speak for the Commission. It will have to speak for itself. But there it is. And Counsel is not only—Counsel for the Division has not only cited this, but he has cited a number of other cases. And nothing has been cited by this Commission contrary to that.

Now, if you can point to a holding by this Commission that is contrary to that, that may throw the matter the other way.

Mr. Quarles: That was the point on which I had [1524] asked the privilege of reviewing the cases, and submitting a memorandum.

Actually, I think that perhaps it is not a matter of great importance which way this ruling goes, because at the present time the evidence is all in the record.

I do not believe there is any further evidence to be introduced bearing on this, except as it may be reflected incidentally in some exhibit. It is now available to us to argue the points before the Commission.

Hearing Examiner Ewell: That is precisely what I had in mind in permitting it to come in as I did.

Mr. Quarles: Precisely. But if it is now struck from the record, that raises the mechanical problem, where it has run through the whole stream of testimony, and is so interwoven as to determine just what of the record is struck.

The Ebasco Company Report, which is one of the principal elements in this entire case, to some extent does involve both of these points.

If your ruling would mean that the Ebasco Report could not be admitted either, then we are in the position of needing in substance to go ahead with oral testimony and other exhibits that would completely reinstate all of this evidence in the record, and let what is now in the record stand as an offer of proof the converse situation of allowing [1525] the record to stand as it is, and allowing Mr. Nowlin to argue his exception to the ruling as you originally made it, which enables both of us to argue the point before the Commission without the practical difficulty of trying to unravel this complicated record, to cut out the portions that are affected, and then to go ahead with days of additional hearing to

get back into the record the portions that are clearly relevant.

So that on both legal and practical grounds, I would urge that the record be allowed to stand as it is, and that we be allowed to argue the point before the Commission in conjunction with the substance of the case, because this is both procedural and substance, and the points are the same.

Hearing Examiner Ewell: Well, that makes pretty good sense to me as a practical matter.

What do you think about it?

Mr. Nowlin: Well, Mr. Examiner, that is one reason I have been reluctant to let any of these exhibits go in, except those that we can see on their face, on initial examination, seem to be relevant. Because if these exhibits had been marked for identification, and then we have a chance to establish these points as we go along, we are in a better position then either to move to strike part of it or all of it. As it is, we have been just on a fishing expedition, because we did not know what was coming next.

[1526] Hearing Examiner Ewell: Well, maybe that was principally my fault. If I had this decision before me, though, at the outset, I might have seen it differently from the beginning. I thought—until I had seen this, I thought there was a real doubt as to what the Commission might—what it might hold on this question, in light of the decision of the Fifth Circuit.

Now, this removed that doubt, but I should have known this, I suppose, the same as you did. But there is so much—so many decisions.

Mr. Nowlin: I am not intending to criticize you. Frankly, I knew each day, as some of these questions would come up, something would start churning in my mind, and I would try to think of some case.

When we came in here, I did not have all these cases in my mind. I did not have a chance to review them all. But

as these questions have arisen, I have tried to take time during recesses and after we adjourned at night, to verify some of my memories, and that is the way I ran across them. Just today, I happened to be going to lunch, and I thought I read another case. I did not compile these all. I just put them in here as I came across them myself.

Mr. Quarles: And that is obviously an unfortunate way and an unfortunate atmosphere in which to attempt to decide anything that does have such sweeping consequences.

[1527] To the best of my knowledge, there is not a single case in which the Commission has held that evidence of this kind should have been excluded or should be excluded. There have been various cases in which, on the facts of the particular case, the Commission has said this was irrelevant, or this should not be given much weight.

As a matter of fact, in the case that Mr. Nowlin was just referring to, and part of which I think he read into the record, if you continue a little further, you find this statement:

“Further, the estimates of ‘loss of economies’ to the electric properties were restricted to the electric properties of Jersey Central. Even if the ‘loss of economies’ to the principal system were a relevant factor, the estimates should have been based upon all the electric properties of the principal system, that is, the entire Penn Jersey system, and not merely to a portion of such properties.”

In other words, the Commission had it in, gave it consideration, and presumably, by way of hedge against an adverse decision in court, said in any event, having considered it, this is not adequate coverage.

So that there still, will all due deference to Mr. Nowlin—there still remains a very substantial question as to whether on the facts of a particular case, different kinds of evidence should be given consideration.

[1528] And here this evidence, whether or not it is regarded as relevant in and of itself, it does have an effect on the computations for the gas companies, and as a buttressing of our computation of losses there.

Mr. Nowlin: Well, Mr. Examiner, it may well be that there wasn't any objection raised to the testimony coming in in those cases. I don't know. That is pure conjecture.

The point I make is that as a matter of law, the Commission has consistently ruled on this point—1944, 1948, 1951, and in the Louisiana Case, which occurred in 1956 or 1957. And it repeated in its brief to the United States Supreme Court in 1957 its views.

So it seems to me that it is a pretty well established principle of law through several Commissions that evaluating the loss of substantial economies, that it is not proper to take into account the losses—the losses to systems other than the initial system that is sought to be retained.

It has this disadvantage: If these exhibits are permitted into evidence, to go into evidence, then the Staff, at least theoretically, or practically, has got to prepare to cross-examine on exhibits which are not relevant. And that tends to prolong the hearing and extend it beyond matters that are relevant.

That is the disadvantage of having to move to [1529] strike. If these exhibits go into evidence, then the staff is going to make in its analysis and study—has got to assume the burden of cross-examining, or either take a chance on them being admitted without testing.

That is the disadvantage of being put in a position of having to move to strike.

In the first place, they should be relevant, material, and competent when they come in. That should be established.

Hearing Examiner Ewell: Well, if you are right on the law, though, they won't be considered anyway.

Mr. Nowlin: Well, means we have got to, if you are

going to permit them to come in—we have got to be prepared to cross-examine on them. It will be a lot of time wasted on everybody's part—the Company's part, the Staff's part, and your part.

Mr. Quarles: It is our thought that you would not have to cross-examine on anything that you were sufficiently sure was irrelevant, that it won't be considered by the Commission.

That, however, is your decision as to what you would prepare to cross-examine on. The portion of it that you regard as irrelevant, I should think you would ignore.

Hearing Examiner Ewell: That is what I had in mind. [1530] I didn't want to put it that strongly.

Mr. Nowlin: It is an elemental principle of law that exhibits and testimony ought to be relevant and material before they are received in evidence—not put in evidence and then moved to strike.

Mr. Quarles: I quite agree with you, and I would not offer any exhibit or any bit of evidence in a case unless I considered it to be relevant.

I consider every portion of the evidence we have offered here to be relevant to one or more of the issues presented.

Hearing Examiner Ewell: Well, as I said before, it is probably my fault, because at that point I thought I had a reasonable area in which I could exercise my own discretion. I have now reached the point where I feel that I do not have that area.

The Commission has already ruled otherwise, and I am bound by it. That is the crux of the situation.

Mr. Quarles: The Commission has not ruled in any case that evidence should be excluded. It is a basic principle of evidence in administrative procedural hearings that in all questions of doubt, the evidence comes in. It is also clear that the admission of any evidence, even irrelevant evidence, is not reversible error.

The exclusion of relevant evidence is reversible [1531] error.

Here, as I have said several times, our factual situation is so different that we consider that we are presenting a case that is novel to the Commission, that we are in a position different from any of the cases that have previously been presented; that these various things that in certain other factual situations might not have been relevant are relevant here.

Just as one illustration of it, we have pointed out that it is relevant in considering the losses in the gas situation that the same loss, the same customers would bear the loss as it falls on the electric companies.

You have an overlap here of over 75 per cent of the gas customers who also have the electric services. And you will get the loss hitting them both ways. That has a bearing on the substantiality of the loss, even if you do not consider it as a dollar amount.

Also, the matter of the hard-pressed economic situation of the Gas Companies in New England being at the end of the line, and with the losses which in other situations might not be regarded as particularly significant there or significant, substantial, and perhaps even determinative of the future.

Mr. Nowlin: Mr. Quarles, do you have any idea how many dollars are involved in this tax problem?

[1532] In other words, if you did not include taxes, what would the effect be?

Mr. Quarles: I cannot off hand give you the dollars amount. If you did not include them, you still would have very substantial losses of economies.

Hearing Examiner Ewell: Of course, the tax question would not involve the same difficulty in excising it from the balance of the record. But the losses to the utilities would involve a considerable problem. But they both stand on the

same legal footing, as far as I could see, so there won't be much point in letting one in without the other.

Mr. Quarles: No, sir. There is a definite difference between the two in this respect, at least, as has been argued before on the tax matter.

Mr. Dunn: The matter of the taxes is entirely distinct from the matter of effect on the principal system.

Mr. Nowlin: I cannot hear you.

Mr. Dunn: Excuse me. The matter of taxes is entirely distinct from the matter of the effect in the principal system. The effect of taxes is a measure of loss, we claim, on the Gas Companies themselves, and we feel is a relevant factor to be considered.

I do not believe that the Louisiana Case discusses the tax problem at all. Am I correct?

Mr. Nowlin: I did not hear you.

[1533] Mr. Dunn: I do not believe the Louisiana Case discusses the tax problem.

Mr. Nowlin: I don't know. I don't think so. It was discussed in the Philadelphia Case that was sustained, and the Commission there made a very pointed decision on the tax matter in the Philadelphia Case. It was sustained in the District Court of Appeals.

Hearing Examiner Ewell: In the Philadelphia Case, page 73, Volume 28—I don't know whether this is in the record or not, but at the risk of repetition, I think it might be helpful to put it in the record.

It states:

"In addition to the specific claim of increased expenses reflected in Coffman's studies, respondents contend that other losses, while perhaps not capable of precise measurement, would also result in segregation. As to most of the claimed 'other losses', there is nothing in the record to indicate the extent or even to support the existence of such losses."

"With respect to the inclusion in these claims losses of 'the saving resulting from the use of a consolidated tax return by Philadelphia Company and its subsidiaries', it may be noted that we have on previous occasions considered and rejected the argument that tax savings constitute 'substantial economies' within the meaning of Clause (a). We have [1534] pointed out that such savings bear no relation to any operational function of retention of control, that the argument assumes a continuation of current tax laws which may be changed, and that furthermore, we cannot permit the incidence of tax savings to disrupt the basic policy of the Act that holding companies generally be limited to a single integrated system.

Moreover, it should be noted that, while respondents have attempted to claim this tax item as an additional loss, their aggregate figures do not take into account the very much more substantial tax reduction which would result from their estimated increased expenses.

See Note 13 supra."

Mr. Dunn: I believe, Your Honor, that is a quotation which Mr. Nowlin read the other day, except for that last sentence, which I added, and I did point out to you that in this case, we are considering the other tax adjustments.

We are setting all Tax adjustments forth in detail, in order to give a true picture of the situation.

I hate to repeat myself, but I would again like to emphasize that these cases were back in the middle '40s, and were shortly after the 1941 date when this consolidated tax return became available for these companies.

At that point it was a new matter, you might say, [1535] a tax situation in flux. But it has now become a fact of life, and as I have already stated several times, State Commissions have taken it into consideration in establishing rates, and it is the consumers that now get the benefits of

these tax savings. If we were to take them away from the consumers, as the Chairman of the Massachusetts Commission stated yesterday on the stand, it would be a severe loss to them. And I cannot believe that the Act itself intended to ignore a loss of economies to consumers.

Mr. Nowlin: Is there anything in the record yet, or are you going to put anything in the record to show the tax effect on the combined companies?

In other words, it is my understanding you have to own 85 or 90 per cent of the common stock of these companies in order to file a consolidated return. Is that your intention?

Mr. Dunn: We do intend to ask Mr. Hanson about that upon his return to the stand.

Mr. Nowlin: But there is nothing in the record so far.

Mr. Dunn: That is correct.

Hearing Examiner Ewell: Off the record.

(Discussion off the record)

Hearing Examiner Ewell: Back on the record.

I think the record might show in the off-the-record discussion, Counsel on both sides were agreeable to my [1536] reserving decision on the question as to whether or not the evidence on the tax savings, and also in losses applicable to the electric system, should remain in the record.

Now, I want the record, of course, to show that I expressed doubt on this question all along the line, so that the present crucial position in which the matter has now been placed is not a surprise to anyone. And I think that because of the complexity of the issues, and the practical difficulties presented by reason of the voluminous material that has been placed in the record, it does seem that there is sound reason for giving the parties an opportunity to consider the evidence that has been placed in the record before a definitive disposition has been made.

\* Is that agreeable to counsel on both sides?

Mr. Nowlin: It is to me.

Hearing Examiner Ewell: So that these last two exhibits, which were held in abeyance, will remain as marked for identification.

Mr. Nowlin: That is Exhibit Nos. 93 and 94.

Hearing Examiner Ewell: 93 and 94.

[1537] Whereupon,

ROBERT S. QUIG

resumed the stand and testified further as follows:

*Direct Examination*

By Mr. Quarles:

Q. In general, Mr. Quig, do you feel that the present methods of joint operation between gas and electric are sound? A. Yes. In my judgment, the present arrangements are an outstanding example of Yankee ingenuity in making the most of what you have in the face of adversity in the form of the roughest competition in the United States.

Q. Mr. Quig, you have heard the testimony on the arrangements under which the gas companies of the New England Electric System purchased their natural gas requirements? A. Yes.

Q. Did you study these arrangements? A. Yes, I did and I would confirm that Mr. Dalbeck has correctly stated both the present arrangements and the rates under which these gas companies in the NEES System are now taking delivery.

Q. How do these rates for gas purchased from natural gas pipelines in the New England area compare with those prevailing elsewhere in the country? A. The City Gate costs of gas in the New England area are [1538] the highest City Gate gas costs in the United States. If the price is right, the best potential market for natural gas sales in the New England area is for space heating. This

type of load, however, requires that the gas distribution companies contract for sufficient quantities of gas after allowance for peak shaving, to meet maximum day conditions of extreme cold weather temperatures.

Although these extreme cold days do not occur on an even pattern throughout the year, and may well only occur to the maximum on a few days during the cold winter period, nevertheless the gas distribution companies must make contractual commitments for these maximum day conditions and pay for these maximum commitments on each and every day of the year whether the gas is taken or not. The extent of the utilization of the maximum day commitment, throughout the year is what is known as annual load factor.

In New England, the annual load factor for space heating gas is approximately 27 per cent. Gas purchased from Tennessee Gas Transmission under their latest published tariff would cost, at the space heating Load Factor of 27 per cent, 1.11 per Mcf, or thousand cubic feet of gas, which is approximately one million Btu's.

Q. Are the purchased costs of natural gas from pipeline companies a substantial portion of the operating expenses of these companies? [1539] A. Yes. In 1958 it was the largest single item of operating expense of each gas company of the NEES System. The ratio of purchased gas cost to total operating expenses ranged from 39 per cent from the Lynn Gas Department to 51.4 per cent for the Central Massachusetts Gas Company. The average for the eight companies was 44.1 per cent.

Q. Do you agree with Mr. Dalbeck's statement as to the extent that the price of natural gas from the pipeline has increased in the New England area? A. Yes, I do agree. The cost of natural gas from the pipeline in the New England area, again using the 27 per cent annual load factor for space heating as a point of reference, has already

increased since the coming of natural gas in 1952, from 72.7¢ per Mcf to \$1.11 per Mcf, an increase of 52.7 per cent.

Q. Mr. Quig, since Ebasco works for a number of gas companies, both distribution and pipeline, can you tell us what the general view in the industry is as to the trend of prices for natural gas in the future? A. Yes. It is my opinion and that of Ebasco generally, that gas prices can be expected to continue their pattern of significant increases.

It is an accepted fact that in the gas industry that the price of gas at the wellhead in the Southwest is continuing an upward trend. Older lower price reserves are being steadily [1540] consumed. In fact, all contracts that pipelines make for new gas at the wellhead provide for escalation in the price of gas over the life of the contract. And as the pipelines reach further for gas to Canada and Mexico, the costs of getting this gas to the Northeastern market can be confidently expected to be higher still, because of higher gas prices for new wellhead contracts and increased distances hauled.

Q. Does the geographical location of the New England companies in relation to the source of gas, have an important effect on the City Gate cost of gas to the local distribution gas utility? A. Yes, it does. Gas, as most everyone knows, is found principally in the southwestern part of the United States. The Tennessee Gas Transmission line, which serves seven of the eight NEES gas companies, originates in the Rio Grande valley, well south of Corpus Christi, Texas.

Even as the crow flies, it is approximately two thousand miles from the Rio Grande to Gloucester, Massachusetts. However, Tennessee does not run in a straight line but winds its way through Tennessee, Kentucky, Ohio, the northern tip of Pennsylvania, turning eastward near Buffalo, New York and continuing into Massachusetts be-

fore terminating at the Essex Avenue City Gate Station in Gloucester, excepting the spur that runs to Concord, New Hampshire.

The economies of the cost of transmitting natural gas by [1541] pipeline are very definitely affected by the distance over which gas has to move from wellhead to the ultimate City Gate receiving station such as Essex Avenue, Gloucester, Massachusetts.

The Federal Power Commission has long recognized the distance factor factor as being a fundamental element in the determination of pipeline natural gas rates. Today this distance factor is readily discernable in the rate structure of any long distance natural gas pipeline company.

Tennessee Gas Transmission has six rate zones ranging from Zone 1 for City Gate service in Tennessee, Alabama and Mississippi, through Zone 4 for Ohio and Pennsylvania, Zone 5 for the State of New York and Zone 6 for New England. Using again as a point of reference the cost of pipeline gas at City Gate at 27 per cent annual space heating load factor, gas from Tennessee Gas Transmission Company in Zone 1 costs 57.4¢ per Mcf, in Zone 4, 84¢ per Mef, in Zone 5, 96.1¢ per Mef and in Zone 6 for New England \$1.11 per Mef.

I think that this recitation of average cost of pipeline gas at the 27 per cent space heating load factor as a point of reference, amply demonstrates the influence of distance from the gas wellhead on City Gate prices of gas. You will note that the New England price is almost 100 per cent more than the same Mcf of gas taken at the same load factor as a point of reference would cost in Tennessee, [1542] Mississippi and Alabama. New England is truly at the "end of the line" and the very high end at that, in the matter of cost of gas.

Q. What effect does the price of City Gate gas have on the ability of these companies to market gas? A. The

relationship of the City Gate cost of gas to the costs of other competitive fuels materially affects the ability of a distributing utility to sell natural gas.

Q. What is the main competitive fuel in the New England area? A. As Mr. Dalbeck has mentioned in his testimony, the main source of competition for the average home-heating installation is No. 2 Fuel Oil. The January 1960 price of No. 2 Oil in the Boston area was 15.28¢ per gallon delivered in the customer's tank. Each gallon of No. 2 Oil contains approximately 140,000 Btu's or, an equivalent cost per million Btu's of \$1.09. Incidentally one million Btu's is approximately equivalent to one Mcf of natural gas and will be so used in any statements I may make.

Q. How does the cost of gas per million Btu's at the City Gate to gas distribution companies at the annual space heating load factor of 27 per cent, compare to the cost per million Btu's of No. 2 Oil as delivered into the customer's tank in other parts of the country?

Mr. Nowlin: What is No. 2 Oil?

[1543] By Mr. Quarles:

Q. The question has been asked, what is No. 2 Oil? A. No. 2 Oil is the type of furnace oil that you see being delivered at the average residential home by the tank wagon.

Mr. Nowlin: Thank you.

By Mr. Quarles:

Q. Will you answer the original question, or would you like it read back? A. I would like it read back.

(The question was read by the reporter.)

The Witness: The range between cost of gas per million Btu's at the City Gate at the space heating load factor and the cost of oil per million Btu's in the customer's tank runs between 35 cents and 80 cents per million Btu's without adjustment for relative efficiency, for a number of large representative American cities.

By Mr. Quarles:

Q. Can you give us some specific examples of the range between City Gate cost of gas and the cost of oil per million Btu's available to some of these other American cities?

A. Yes, I can. All the prices I shall give are for a million Btu's with oil delivered into the customer's tank and with gas purchased at the City Gate at the space heating load factor of 27 per cent.

[1544] In Brooklyn, New York, gas is 71 cents, oil 109 cents, so gas costs 38 cents less; in Detroit, gas is 71 cents, oil \$1.15, so gas costs 44 cents less; in Chicago, gas is 52 cents, oil \$1.08 and gas costs 56 cents less; and in Kansas City, gas is 33 cents, oil \$1.13 and gas costs 80 cents less.

These comparisons for representative cities in this country, show substantial cost differentials in favor of gas, without consideration of relative efficiencies, whereas in New England City Gate gas is at a price level which allows little room in pricing competitively.

These comparisons are in the nature of indices of the competitive situation in the space heating market. They show the fundamental problem which the NEES gas companies and others in the New England area are up against and which shows no signs of improvement.

Hearing Examiner Ewell: What was the relative ratio in the gas and oil prices in New England?

The Witness: Mr. Examiner, they are just about the same. The equivalent cost of gas is \$1.11, and the price of oil, that I took in January, of Boston, was \$1.09. In fact, it was the reverse—2 cents the other side. Whereas, in most of these other cities, the gas costs well below the cost of oil.

Hearing Examiner Ewell: Thank you.

[1545] By Mr. Quarles:

Q. Mr. Quig, you referred throughout this portion of your testimony to the 27 per cent load factor City Gate cost

of natural gas. On the other hand, Mr. Dalbeck testified that none of the gas companies actually buy gas at 27 per cent load factor. What is the significance of the cost of 27 per cent load factor gas? A. It is perfectly true that none of the gas companies at the present time purchase their total requirements at 27 per cent load factor. This is true for a number of reasons. In the first place, each company has a considerable amount of firm load for use other than house heating.

Secondly, even with respect to house heating these companies do manufacture some gas for peak-shaving purposes. However, under present inflationary conditions it would be impossible for any of these gas companies to stand still without soon being put out of business.

Just staying in business requires that load be added and, of course, that doesn't do any good unless it can be added at a reasonable profit. The fact of the matter is that there is no market in New England for significant increase in load except for space heating.

Therefore, most of the load which is added has to be sold at a 27 per cent load factor and the significance of the City Gate cost of gas at a 27 per cent annual load factor as [1546] compared with the cost of competitive fuels is that this is a rough indication of the margin within which the gas companies can hope to make a profit on the new load.

Q. In considering the use of gas or No. 2 Oil for space heating, does gas have any advantages over oil? A. Gas has a number of advantages over No. 2 oil when used for space heating. Gas is cleaner, more efficient, does not need a storage tank, has a lower first cost of equipment, and is generally more desirable.

Q. Would you explain what you mean when you say that gas is more efficient than oil for a centrally heated residential installation? A. Efficiency is a measure of the number of Btu's in the fuel that are transformed into

useable heat as opposed to waste heat. If you ask an oil-man, he will say that oil is as efficient as gas. If you ask a gas man in New England, he will probably claim that gas is about 75 per cent to 80 per cent efficient and that oil is around 60 to 65 per cent efficient.

The American Gas Association in its Publication "Gas Facts", 1959 issue, claims gas to be 80 per cent efficient compared to oil at 57 per cent efficiency. Most unbiased observers consider gas to be considerably more efficient than oil for a comparable type installation.

Q. Do you have any knowledge of the comparative annual costs of heating an average sized home in the New England area taking into account the relative efficiencies that you might assign to the various fuels? A. In figuring the annual [1547] costs of heating an average sized home in the New England area with the various fuels, I would assign these efficiencies which should be generally acceptable. Natural Gas, 75 per cent efficiency; #2 Oil, 65 per cent efficiency. Assuming that the average house would use 120 Mcf for space heating, the annual cost under retail rates that were in effect last winter would be about \$166 for gas, compared with \$173 for oil, including \$6 for electricity and \$13.50 for servicing.

Q. Would the annual savings as between these fuels be sufficient to encourage conversion to gas? A. The annual savings resulting from converting from oil to gas would be about a stand-off looked at from price alone. As I have mentioned before, there are other advantages for gas which must be taken into account and which make necessary the utmost expenditure of sales effort if gas is to be sold for residential space heating.

Q. What would be the differentials in the annual heating bill between oil and gas for an annual heating consumption of 120 Mcf in some other cities? A. In Brooklyn, 120 Mcf of gas for space heating would cost about \$144, while to

heat with oil would cost about \$171, a differential of \$27; in Chicago, 120 Mcf of gas for space heating would cost about \$108 while to heat with oil would cost about \$150, a differential of \$42; in Detroit, 120 Mcf of gas for space heating would cost about [1548] \$96 while to heat with oil would cost about \$178, a differential of about \$82; and in Kansas City, 120 Mcf of gas for space heating would cost about \$58 while to heat with oil would cost about \$176, a differential of about \$118. In each case the differential includes \$6 for electricity and \$13.50 for servicing for oil home heating.

The existence of differentials such as these encourage conversion of space heating equipment to gas use much more rapidly than do the small differentials that exist in the New England areas.

Q. What about the prospects for electricity as a competitive energy source for space heating? A. No one knows at this moment what the effect of electric heating will be in the cold Northeast section of the country. However, in the last few years there has been a tremendous increase in the use of electricity for residential space heating throughout the United States.

Much money has been spent on national advertising creating customer interest in all areas of the country. Recently Boston Edison, which operates in a portion of the Mystic Valley Gas Company service area, filed a special rate aimed at obtaining electric space heating business. The NEES electric companies have done the same thing.

It is true that electricity is most economically adaptable in the new well-insulated home but this same insulation [1549] will reduce the cost of gas heat proportionately. The new home field is just the field where gas has had its greatest advantage in the past. Electricity is a competitive energy source for space heating that the gas companies in all parts of the country must reckon with.

Q. How about the competition for the residential load other than space heating? A. The competition for the residential cooking and water heating load is chiefly from electricity—especially again for new residences. While this load has a comparatively good load factor, it has low annual volume and this does not materially help consume the large quantities of firm gas that these companies have under contract.

Q. Do you believe it is possible to build up high volume sales in view of these intense competitive conditions in the residential home-heating market? A. Yes, I believe it is possible—given time. I think a sales program such as the NEES companies have is essential. The NEES companies are carrying on intensive sales programs at the local level that features, among other things, direct mail, billboard, newspaper and radio advertising, demonstrations by home economists, appliance merchandising, sales campaigns and cooperation with independent home builders, heating contractors, plumbers and equipment dealers.

[1550] These efforts are supported by the centralized sales promotion efforts of the Gas Division and its trained manpower which are devoted to the development of long range sales promotion plans and campaigns for the local companies and the development of and participation in regional advertising programs.

The Gas Division also supplies the local companies with expert advice on difficult equipment problems or procedures. Of course, the other essential in building volume is to keep expenses low and thereby seek to hold rates down to competitive ranges.

Q. Mr. Quig, will you discuss the competition for gas in the industrial and commercial markets? A. The competition in the industrial and commercial markets is in the main, No. 6 or Bunker C oil. The posted price in the Boston area for No. 6 fuel oil which is used as fuel in boiler plants

for industrial installations was \$2.64 per barrel. A barrel of No. 6 oil is equivalent to 6.3 million Btu's. This means that No. 6 oil costs 41.6 cents per million Btu, but many customers are buying No. 6 oil at discounts from the posted price, there being no regulatory control over the price of oil. Giving effect to these discounts, No. 6 has recently sold as low as \$2.40 per barrel which is equivalent to 37.84 per million Btu or per Mcf.

Q. Are oil prices in this general range likely to [1551] persist? A. Yes, it is well known that there is currently and, experts seem to agree, for some time to come, a substantial surplus of oil available throughout the world. Massachusetts borders on the ocean and it is possible to bring to this area by tankers substantial quantities of this oil. There is probably no cheaper mode of transportation than oil tanker-borne Btu's. The only factor that is currently working towards keeping cheaper foreign oil out of this country and a resultant lowering of oil prices/even further is the existence of the present federal import restrictions.

Q. With competitive No. 6 oil currently at 37.8 cents per million Btu, or per Mcf of gas equivalent, as you stated, isn't this price quite close to the commodity portion of the Tennessee rate on Zone 6 which Mr. Dalbeck discussed? A. Yes. It is clearly evident to me that with these low competitive fuel prices, no gas company is in a position to serve the large commercial and industrial market which today is using No. 6 oil. In fact, the going price of No. 6 oil after write-off of conversion costs and other appropriate adjustments, would place the costs at which gas would have to be sold at or below the level of commodity costs of City Gate gas, namely 36.1 cents, now purchased from Tennessee Gas Transmission Com. It is clear that there is little incentive to a customer to install gas burning

equipment [1552] unless other advantages of gas make it worthwhile.

Q. Would not gas be attractive for use in boilers of large steam-electric generating stations? A. Inspection of the cost of fuel at large steam-electric generating stations, such as Salem Harbor or Edgar, all in the Boston Harbor area, reveals that the cost of coal which is the main source of fuel at these stations as burned and as reported to the Federal Power Commission for the year 1958, is in the range of 41½ cents and 43¼ cents per million Btu.

Again after appropriate adjustments and the write-off by the customer of conversion cost, there would be very little if any margin between commodity cost of the present City Gate rate of Tennessee and the price at which the gas could be sold.

In addition, there would have to be an allowance made for the cost of getting gas to these large stations from the existing distribution facilities of the gas companies. I have ascertained that currently coal is costing \$10.11 per ton at the Salem Harbor plant and \$10.55 per ton as fired, with a resultant cost of 36.38 cents per million Btu as fired. Keeping in mind that the Tennessee Gas Transmission Company's commodity rate is 36.1 cents, there is certainly no profit in such a sale. And unquestionably, from the viewpoint of the gas companies, the competitive fuel situation [1553] today has worsened from what it was in 1958.

Q. As I understand it, the gas companies contract for the maximum volume of gas needed after considering use of their own peak shaving facilities, for the maximum winter day condition. Is that correct? A. Yes. The gas company must pay the Demand Charge for the maximum volume contracted for in every month of the year whether taken or not.

Q. What is done with gas during other periods of the year that was contracted for to meet the maximum winter

day condition? A. The gas that you have just described is known as "valley" gas. The use of the word "valley" is quite descriptive because the annual pattern of take from the pipeline, when looked at graphically, reaches peaks at the beginning and end of the year but falls to a low point in the summer months,—hence the word "valley."

Regardless of the low summer use, the pipeline rates require that the reservation, or Demand Charge, must be paid for each month of the year, regardless of the volume used.

Q. Why, then, cannot this "valley" gas be sold? A. In many other parts of the country valley gas can be sold at levels about pipeline commodity cost and still well below the price of competing fuels. But it cannot be sold in very helpful volumes in New England because of the [1554] competitive price situation I have just described.

You will recall that I said that the competitive price of No. 6 oil is practically the same as Tennessee's Commodity price. Since the commodity rate must be paid on Valley gas just as on other gas, this leaves little incentive for sale of this valley gas, and even less so when the costs of conversion and relative efficiencies are considered.

With regard to the large volume potential Btu market in electric power plants now being served in the main by coal, the existing situation at Salem Harbor power plant certainly does not auger well for the disposal of valley gas.

Q. In light of what you have discussed, would severance from NEES help or hinder these gas companies in meeting the competitive situations in which they find themselves? A. I think it is clear from what I have said about the competitive economies of the gas business in New England that even the slightest increase in costs of serving customers, could seriously impair the ability to sell gas. We have demonstrated in some depth that severing of these eight gas companies from the NEES System would increase

their operating expense, reduce their gross income and lead to their seeking retail rate increases.

If to the competitive situation I have described—and which has been underlined by other witnesses who have pointed out the reasons the NEES companies were later than some other New England companies in taking full advantage of the opportunity offered by the arrival of natural gas—if there is added the additional burden of further rate increases made necessary by increased operating expenses due to severance, the end results could well be that these gas companies will have priced themselves out of their logical market.

The railroads and local transit organization, in New England and elsewhere, have already experienced this same succession of events to such an extent that there is great pressure on the Commonwealth of Massachusetts to subsidize certain of these rail operations by payments from the public purse at the expense of all taxpayers.

Q. Mr. Quig, are you inferring that the inability to price gas service competitively would impair the financial stability of these gas companies? A. Yes, I am. Inability to price competitively results in loss of business and revenue associated therewith. This may well be such as to impair the financial stability and credit rating of these companies and materially affect their ability to render adequate service to customers in accordance with their present high standards and those considered by the Department of Public Utilities as required by the applicable laws regulating public utilities in Massachusetts.

Q. In making this statement have you considered that there are several substantial independent gas companies in Massachusetts? A. Yes, I have. Many of the problems I have described are common to all New England companies. However, some of them got an earlier start than these eight companies when natural gas arrived; some may have better

franchise areas; and some may not have the same standards of service.

But in a real sense I feel this type of explanation misses the point. The fact is that every gas company in Massachusetts, big or small, independent or affiliated, is as presently [1555] constituted facing the fight of and for its life. While the future is necessarily dark, due to the competitive price situation, there is no slack or leeway which can be fallen back on by these companies in meeting the competitive challenge.

Q. Mr. Quig, what do you conclude in the light of these competitive situations you have discussed? A. I conclude that the severance of these eight Massachusetts gas companies from the New England Electric System would tear the economy of the companies asunder and throw them perhaps individually to the wolves. It would be far better—in fact I would say it is imperative—to leave them in their present operating relationships, as to effect of severance on these gas companies would be major in the light of the competitive situation in New England today.

I believe it is essential that they have a close-knit integrated, centrally-controlled operation if those economies are to be attained.

Q. Referring back to your summary tabulation, in the previous exhibit and in the light of the discussion we have just had on the competitive situation, will the severance of the gas companies from the NEES System result in substantial losses of economies for these companies? A. Yes. It is Ebasco's considered judgment that the [1556] severance of the gas properties would result in a serious and substantial loss of economies to the affiliated companies of the system. It would be especially harmful to the individual gas companies and it would also have significant impact on the remaining electric companies.

[1557] Q. If the increases in operating expenses and the resulting decreases in gross income which are the result of losses of economies due to severance of the gas companies should eventually necessitate retail rate increases for both gas and electric customers, what would be the effect?

A. As the individual sections of the Respondent's Exhibit 58-A and B indicate, a great many of present customers of the NEES System are "combination" customers, that is, both their gas and electricity is supplied by NEES companies. Therefore, the effect of severance of the gas business would be magnified since the gas and electric companies would each be adversely affected. The effect on such customers might be an increase [1558] in both gas and electric bills.

Q. What would be the relationship between losses of economies and increased rates necessary to offset such losses? A. In respect to needed increases in gross revenues under these conditions the figures I have given only consider the decrease in gross income. Take the 1958 figures for the eight gas companies. To restore the \$957,600 decrease in gross income may well require gross revenue increases by the medium of increasing rates to gas customers of about twice that amount or about two million dollars.

The Federal Income Tax alone takes just about one out of every two additional dollars paid by the customers. So the rate increases necessary to restore the 1958 earning power of the 22 gas and electric companies of NEES would not be the \$1,110,000 decrease in gross income, but almost \$2,200,000.

Mr. Quarles: I have no further questions to ask Mr. Quig at this time. I ask that he be excused.

Mr. Nowlin: I have two or three questions.

Hearing Examiner Ewell: All right, Mr. Nowlin.

*Cross-Examination*

By Mr. Nowlin:

XQ. Mr. Quig, in the course of your testimony you used the term purchasing gas at a certain load factor. Will you give a definition of load factor as you are using the term? [1559] A. Yes, Mr. Nowlin. I would like to refer to a definition that I had of load factor in the testimony, if I may, sir.

XQ. If that is already in the testimony— A. It is.

Mr. Quarles: Why don't you give him in a word what it is.

The Witness: I would rather stick to what I have here, if I may, sir.

Mr. Nowlin: I withdraw the question.

By Mr. Nowlin:

XQ. You are also talking about demand charges. What are those based on? Is that the highest take during any month during the year, or how are the demand charges arrived at? A. These gas companies contract for the maximum quantities of gas that they want the pipeline to deliver. The maximum quantity of gas is determined by these companies after giving due effect to the amounts that they may make for themselves by their peak shaving equipment. They are left then with the amount of gas, after peak shaving—with the amount of gas that they want the pipeline company to supply. That is a contractual and almost irrevocable commitment that they make. And under the present tariffs of Tennessee and other pipelines filed with the Federal Power Commission, they pay for that maximum contractual commitment each month of the year.

[1560] XQ. During the winter months their take is much greater than it is during the summer months? A. Yes.

XQ. Isn't the demand charge based on the highest amount they take during the winter months? A. That is right. The gas utilities have a commitment to meet their winter

space heating load. That is the usual design concept. And they have to buy quantities of gas to meet their maximum day requirements, less whatever peak shaving gas they make on that day, which is a normal amount.

XQ. The effect, then, is that the company is paying the winter peak rate for gas during the summer which it doesn't take? A. That is correct.

XQ. Do the companies have to pay that actual demand during each month of the year? A. Yes, sir. Under the last Tennessee rate, made effective in April, it is the highest rage in the country—it is \$6.15 per Mcf for maximum demand. So you just consider that \$73.80 a year has to be paid for that one single Mef of demand they contract for, whether it is used or not.

XQ. In addition, you have the Commodity rate? A. And then you pay for what the meter shows of the volume of gas that runs through it. What I have mentioned as to the [1561] \$6.15 a month, is just the reservation charge to get the right to use the volume.

XQ. You mentioned the City Gate cost of gas to several companies. Is that cost to each of the companies the same, or do they have different gate rates? A. The cost to each of the companies is the same throughout Zone 6. The rate to each of the companies is the same throughout Zone 6 of the Tennessee Gas Transmission Company. The cost per Mef depends, of course, upon the nature of the take. Some have a little better utilization than others. They are all within a close range, though.

XQ. That would be true, then, with all of the non-affiliated gas companies in Massachusetts? A. That is true.

XQ. In other words, they all buy their gas at essentially the same City Gate rate? A. That is correct.

XQ. I think early in your testimony you, as I understood it, said that the gross income of the company—that is at least where rates are based on original costs—that the gross

income of the company was a pretty good indication of the rate of return, is that correct? A. Yes, I did say that.

XQ. Have you attempted to apply the gross income to the capitalization of each one of these companies, to determine [1562] what return they are earning on their invested capital? A. No, Mr. Nowlin, I made no such mathematical determination.

XQ. Do you happen to know during 1959, for example, what the individual gas company's rate of return was—that is, what rate of return their gross income represented? A. No, I made no such determination. I did do this. It is a point that we took into consideration. Looking at the history of the rates of these companies, within the past few years, certainly we found no one company that has a rate decrease, that is for sure. And each one of them, beginning in 1956 and 1957, oh, ever since that time have had successive rate increases allowed by the Department of Public Utilities. Now, that told me that at any one time, by virtue of the successive rate increases that they were granted, I am sure that the DPU never considered that they were in an excess return position, whatever statistics the DPU may have had in their mind.

XQ. Isn't that a general proposition with all the gas companies in the past few years? A. More so in the New England area than throughout the country.

XQ. Are you familiar with the Columbia Gas System operations? A. That I am.

[1563] XQ. Haven't they also had numerous rate increases? A. They have. But their rates are materially lower than the rates in New England. And the spread I mentioned—take in the middle part of Ohio today—gas, even with the increases that have come about, it is still so much cheaper than oil that you do not have this close competitive problem that we have in New England.

XQ. Well, now, suppose Tennessee Gas Transmission

files for an increase with the Federal Power Commission by virtue of increased costs in the eastern area. Some of these companies are able to immediately put that rate increase into effect and collect what they call contingent earnings, pending a decision in the case. Do any of these NEES subsidiaries have any contingent earnings on their books, arising by virtue of an increase by Tennessee Gas of the cost of gas? A. I know of no contingent earnings. They have what we call a purchased gas excalation clause, which is only immediately operative with the approval of the Department of Public Utilities, so that the DPU is constantly standing there at the gate to indicate as to whether in their judgment it can be used.

XQ. To give you a little more idea what I am thinking about—some of these State Commissions have an automatic provision whereby the distributing companies can automatically put into effect increased rates to offset increased charges by [1564] the pipeline? A. Yes.

XQ. Some of them don't. Some of them are permitted to collect it under bond, and that is what they call contingent earnings. I was wondering in the event of these New England gas companies, if Tennessee Gas, for example, were to up its rate 20 cents per Mcf, could these gas utility companies in Massachusetts immediately put that higher rate into effect? A. I don't think so, sir.

XQ. They don't have any automatic operating clause? A. The Massachusetts Commission keeps a very strict control over that.

Hearing Examiner Ewell: You mean they would have to go through a complete rate proceeding before they would get the increase?

The Witness: Mr. Examiner, the exact detail of procedure I am not acquainted with.

By Mr. Nowlin:

XQ. Mr. Quig, you mentioned about the possibility of

special heating rate for electric customers, house heating customers? A. Yes.

XQ. Has there been a special rate established in Massachusetts for electric heating customers? [1565] A. By what company?

XQ. By NEES. A. The NEES companies, yes, sir. They have been very quick on that, along with other electric companies in the country, and within the past two months, the Massachusetts Commission has sanctioned a rate aimed at getting electric space heating business.

XQ. Do you know how that rate would compare with the cost of heating by gas? In other words, if you had the same house, put gas in it or electricity in it? A. Yes. Well, of course, everywhere the cost of heating by electricity on a straight Btu basis, and the engineers have to go back to the Btu to get it on an equivalent basis—the cost of heating by electricity is more than the cost of heating by gas, even in the Deep South, where we have very cheap gas. The cost of heating by electricity is more. But as I said in my testimony, the cost is only one of the considerations you have to take into account.

XQ. Do you know what differential would be involved and between the electric heating and the gas heating, in a given house? Would it be 5 per cent or 10 per cent or what? A. Well, not with that degree of preciseness, no. We would have to spell out just exactly the house and the consumption and computations could be made. But even throughout this country [1566] there is a differential between the cost of heating by electricity and the cost of heating by gas. Gas is usually somewhat cheaper.

XQ. I know that is generally true. I was thinking about Massachusetts alone. If we had a given eight-room house, a new house, that you could install electric heating or gas heating—what I am trying to get at is what differential saving would there be as between the gas and the electricity?

A. Sir, I made no such particular computation on a typical house of that size.

Mr. Nowlin: That is all I have at present, Mr. Examiner.

Mr. Quarles: Mr. Examiner, I am going to wish to recall Mr. Dalbeck, Mr. Hansen, and Mr. Webster, each of them for only ten or fifteen minutes of questioning. Would it be appropriate to have a very brief recess at this point?

Hearing Examiner Ewell: Yes, I think we should.

(At this point a short recess was taken.)

[1567] Hearing Examiner Ewell: Let's resume, please, gentlemen.

Mr. Quarles: I would like to recall Mr. Dalbeck, who has previously testified.

Whereupon,

HAROLD L. DALBECK

was recalled as a witness and, having been previously duly sworn, was examined and testified further as follows:

*Direct Examination*

By Mr. Quarles:

Q. Mr. Dalbeck, I show you eight sets of sheets which appear to be rate schedules, one set for each of the eight gas companies within the NEES system. Will you please describe them? A. These eight sets of sheets constitute the effective rate schedule as on file with the Massachusetts DPU, one set for each of the eight gas companies in the NEES system.

In general there are three types of rates for each company; the basic domestic rate K, the domestic house heating rate L, and the general rate M for all commercial and industrial uses.

Then there are terms and conditions which apply to the sale of gas by each of the companies. In Lynn Gas Co.

there are comparable rates; a domestic rate J, a commercial and industrial rate M, and a commercial building heating rate K.

[1568] Northampton Gas Light Company in addition to its K, L, and M rates, has an industrial gas rate N for larger industrial customers. North Shore Gas Co. has two rate zones. The main rate zone consists of the cities of Salem, Beverly, and Peabody, and the town of Danvers where its K, L, and M rates apply; it has similar K, L, and M rates with the designation 2 added which apply in the city of Gloucester and the town of Rockport. In addition North Shore Gas Co. has a restaurant rate "O" in its first zone and 0-2 in the Gloucester zone.

Q. Why does Northampton have an N rate for large industrial customers where other companies do not?  
A. This goes back to the competitive situation I have described in earlier parts of my testimony. Northampton was faced with a situation where they would lose one of their largest customers if they did not make a reduction. The solution we found was to file a new large industrial rate available only to customers who would guarantee a very high monthly consumption in exchange for a lower tail end of the rate.

Q. Mr. Dalbeck, I notice that North Shore Gas Co. has a restaurant rate which is different from any of the other companies. Why is this?  
A. This again has its origin in a competitive situation. We had a few restaurants which we were in danger of losing [1569] on our general rate M and a rate was designed that would give them enough reduction to hold them, but in return these few customers agreed to use not less than \$500 worth of gas a year and to use gas for all their hot water and space heating requirements.

Q. Are all of the K rates for example the same in each company?  
A. No. None of our corresponding rates are

the same in each company, with the exception that the basic tail end step of the K rate, the L rate, and the M rate in all companies except Lynn are the same. The earlier blocks of the K and L rates are the same in size but different in price due to the differences in territory which reflects both market and plant investment required, the earlier history of the companies and their relative earnings. In addition they are further varied by the application of the purchased gas adjustment clause in the rates which has had a slightly different effect in each company. As to Lynn Gas Company, its rates are the rates that were in effect at the time of acquisition. There has been no change in Lynn's rates with the exception of the recent escalation under its purchased gas price adjustment clause.

Q. Mr. Dalbeck, are the rates of these companies going to be made uniform? [1570] A. That is an objective that we always have in mind. However, it is one that is extremely difficult to accomplish and while we are making studies and attempting to get them more nearly uniform, and particularly simplified, I do not expect that we will be able to accomplish it for some time to come.

Q. Are these sets of gas rates complete and accurate duplicates of the rate schedules of the eight NEES gas companies as on file with the Massachusetts Department of Public Utilities? A. They are.

Mr. Quarles: I would offer them as Respondent's Exhibits 95 for Central Massachusetts Gas Company, 96 for Lawrence Gas, 97 for Lynn Gas, 98 for Mystic Valley Gas Company, 99 for North Hampton Gas Light Company, 100 for North Shore Gas Company, 101 for Norwood Gas Company, and 102 for Wachusett Gas Company.

Mr. Nowlin: No objection.

(Respondent's Exhibits Nos. 95, 96, 97, 98, 99, 100, 101 and 102 were received in evidence.)

By Mr. Quarles:

Q. Mr. Dalbeck, are you familiar with Respondent's offered Exhibit entitled "New England Electric System—[1571] Gas Severance Study—Supplemental Report—Combined Operation of Eight Gas Companies"? A. Yes, indeed.

Q. Was this Supplemental Report prepared by Ebaseo at the request of NEES management? A. Yes.

Q. What was the purpose of the further study to which this report relates? A. As has already been brought out in the testimony, when we started our severance studies and retained Ebaseo to help us we proceeded on the basis that all calculations and estimates should be prepared on the separate operation of the eight individual gas companies if they were removed from the NEES System.

We realized that any assumption and analysis of the effect of severance of the gas from the electric business would have to start with a study of the effect at the local level. Furthermore, the necessary element in considering them as a single integrated utility system is their common ownership by NEES and their joint operation by its integrated organization.

By hypothesis, in the event of separation, this unifying element would disappear and each of the gas companies might be on its own. We and Ebaseo, accordingly, studied the effect of severance on an independent company basis and came up with [1572] the results which we have testified to.

However, we also realized that conceivably two or more of the gas companies might come under common ownership and be managed and operated jointly and that the Commission might be interested in knowing how this would affect the operating results and the loss of economies. Not being able to guess how many or which of the companies might come together in this way, we decided to study the maximum possible combination—which presumably would

represent the maximum saving of economies—namely, a combination of all eight of the companies.

So we asked Ebaseo in conjunction with our own people to review the work they had done and re-examine the situation on the assumption that the eight gas companies would be put together under some form of organization or operating structure with at least sufficient common ownership to procure the best insurance rates and other advantages that might be available.

Since we had no basis whatever for specifying the type of organization, we decided not to include as an element of expense any allowance for the costs of financing and maintaining the unifying structure itself, but merely to determine which of the losses resulting from segregation would be occasioned by separating the gas businesses from the electric and which would be occasioned by separating the gas businesses from each other and operating them singly. These further studies were made much as the previous ones with the Ebaseo personnel and our [1573] own people collaborating in collecting and tabulating data but each group satisfying itself in all matters where judgment or opinion was required.

Q. Did you participate in the preparation of this Supplemental Report? A. Yes, I did. This Report, as in the case of the independent gas company reports, was the result of the cooperation and combined effort of many people.

Furthermore, an understanding of the Gas Division and the local organizations was essential to this report and so I worked closely with the Ebaseo group and our own people to help develop an estimate of the capabilities of the Gas Division and what would need to be added to the present staff for independent operation and how this would affect the local organization.

My own experience in setting up a similar organization many years ago was most useful in this work.

Q. Do you consider the conclusions embodied in this report to be sound and reasonable? A. I certainly do.

Q. Does this Report envision an organization which, in your opinion, will be as economical as possible—given the assumption of severance from NEES? A. Yes. Of course many variations are possible in the method of organizing a system such as this, but I do not [1574] believe any variations I can think of would result in substantial savings over what Ebasco has proposed in its report.

Q. What kind of variations do you have in mind? A. For example, in this report Ebasco has assumed that billing of customers' accounts would be localized within each company. It is conceivable that in an organization such as is anticipated here billing might be centralized to some degree. But this decision, in my opinion, is really not important cost-wise.

I have in the past made many studies of customer accounting procedures and in no instance have I ever found that there were real economies in centralization of billing. I think the best evidence of that is a comparison of companies with centralized billing as against billing in each company. One group in New England does bill at one location for all of their companies and customer accounting costs in its companies are higher than ours. So you may argue on form, but the substance, which is cost, is not affected.

Q. In your opinion, is the Executive and Administrative group projected in the Supplemental Report sound? A. Very definitely.

To substantiate this I would start with myself as President of the existing companies. I am sure that the load I am carrying in directing the operations of these companies, even with the help of NEES, is about all a man could possibly [1575] do. And if you add to these present responsibilities the task of directing the financial policies, the

accounting, the legal aspects of the business, insurance, safety, medical, rates, public relations and all the other functions that the NEES System performs for us it would be physically impossible for a President to do so without substantial assistance. And, as Ebasco has shown in their report, this assistance can only come from increased executive and administrative personnel.

Accordingly, this gas group would certainly require a high grade Executive Vice President to take over some of the burden assumed in this new organization by the President. I might also inject here, that in other gas companies that I know of, even smaller in size, this is a position that is a part of their organization. Actually, this is the only management executive that is superimposed over our existing organization. The report continues the three Assistants to the President as Vice Presidents in the new gas operations and in each case they would continue to have the same general area of responsibility as at present, although each would have added burdens.

Take the new position of Sales Manager. Actually, this is an extension of the duties of the Sales Promotion Manager in our existing organization.

You will note, however, that the Sales Manager reports [1576] to the Vice President (Marketing and Supply) while the present Sales Promotion Manager reports directly to me. This change was made because we all realized that the President could not possibly devote the time to sales which I do now.

So the responsibility of the sales program would be vested in this Vice President with the Sales Manager being responsible for all areas of sales and sales promotions.

This, in my opinion, is a must and the only way that a continuation of our present sales effort could be maintained. [1577] Q. What Gas Division functions would continue under this projection? A. Everything that we now do con-

tinues practically unchanged, particularly in the field of engineering and local management, production, utilization and sales. With the organization set up as it is, operating from a central gas organization would not result in any changes at the local level except, and this is a big exception, accounting.

Q. Will you please comment on some of the personnel added to this central organization who are not now in the Gas Division? A. I have testified in this proceeding of the many areas where the NEES System assists us in the operation of the gas companies. You will recall the many instances that I referred to the Corporate Department. There has been included in the new organization a General Counsel who would advise and assist on Federal and State regulatory matters, property and franchise problems, rate hearings, security issues, corporate affairs, labor matters, legislative affairs, contracts of all kinds, suits, dealing with municipal and state authorities and the general day-to-day legal work of an operation as complex as ours. If a General Counsel were not included in this new organization, I am sure that the aggregate costs of such services would be greater than shown.

I have also mentioned in my testimony, and others have too, [1578] the work of the NEPSCO Safety Department. I personally feel very keenly about the effective work of this department and the resulting execellent record in our companies and I would not regard it as an economy if these gas operations take a backward step on safety. Therefore, a Safety Director and staff are an absolute essential to a continuation of our present effective safety program even though this staff probably could not continue the present complete coverage of the NEES program, with its much larger staff.

The Public and Personnel Relations group of five people included in the pro forma central organization would handle

many of the functions now provided by the Service Company. All gas and electric companies do provide some type of employee assistance in the area of medical help and this would be one of the functions of this department—labor relations, which is a continuing problem in dealing with employees and requires a tremendous amount of attention, would be another.

Communications with employees is so important that some sort of employee publication would be desirable even though these companies could not afford a magazine such as CONTACT.

Other functions of this department now provided at the System level would be public relations in dealing with public authorities, news releases, such area development [1579] as might be justified, personnel histories of employees, employee training and a vast number of other duties so necessary in the maintenance of good employee and public relations. This group is certainly an essential and integral part of any organization.

It is also obvious that if the gas companies are separated some sort of centralized purchasing will be desirable even though all of the benefits now available through the Service Company may not be possible. However, the utmost economy in a separate gas operation would be achieved through this purchasing group, and I am sure, based upon my past experience, that the projected estimate of five employees is conservative.

Q. Will you comment on the Treasury and Accounting organization? A. Certainly. To absorb in this gas group all of the services now performed by the Treasurer of NEES and his staff for the gas companies would require as a minimum the staff projected and I am sure that this new Treasurer could not possibly bring to these gas operations the knowledge, the contacts or the background that Mr. Hanson and his staff have gained through their years of

experience. The comments that I made on customer billing and accounting would also apply to this section of the report. Here again it is not important whether general accounting is set [1580] up on a centralized or decentralized basis because our experience and studies show that the net cost would come out about the same. It is not at all clear that greater economies could be achieved by further centralization. I have heard managers cry out loudly in protest when general accounting was moved away from their offices and records, reports and information was not readily available to them. Real money can be lost through lack of information.

Q. Will you comment on items shown under Other Expenses? A. None of these amount to a great deal in dollars except insurance. I was particularly interested in the effect of the combination operation on insurance costs over separate companies. The reduction as compared with separate operations is material but still a long way from our present costs. I must say that as President of the gas companies I feel a lot more comfortable under the present System coverage than the coverage that might be available under the combined gas group.

Q. Do you consider the combined gas operations as shown in this Supplemental Report a sound plan? A. It makes more sense than separate companies. However, it is very definitely by far second best to our present situation, and it cannot be considered sound when it is going to cost these gas companies about \$1,100,000 [1581] more in operating costs than at present. It is clear from what has been said in this hearing that our pipeline costs of gas are continuously increasing and that we are approaching a position where we are pricing ourselves at about the limit for the house heating market. An increase of over \$1,000,000 under separate operation could very well tip the scales against us and I, therefore, would be seriously concerned about any

plan, even this one, that forces us out of the New England Electric System and into increased operating costs. It should also be pointed out that the operation of these companies apart from the System will certainly lose many of the benefits of System operation which this combined gas operation just couldn't afford to have if operating on their own in any manner.

Q. Mr. Dalbeck, will you please give us your opinion as to the significance to the gas companies of the possibility of severance? A. Yes, I will. I have brought into my testimony a background of many years in the gas business. I have operated under many varying conditions in these years in an independent gas company and with two holding company systems. I have also given a great deal of thought to the projected gas companies, both as separated gas companies and as a group operation. I have spent more hours and time in study, analysis and preparation for the problems of this proceeding [1582] than I care to think about and I have sought to present the picture of our gas companies as a part of the New England Electric System from an objective point of view. The testimony that I and others have presented in this case brings into focus the practicality, the economy and efficiency and, most satisfying from my point of view as executive head of these gas companies, the complete independence of operation that we enjoy in the Gas Division in those most important areas that can result in the maximum development of the gas business.

The independence of action and concentration of effort in building the gas companies to their present state of earnings has been possible to a very large degree by the fact that the many functions performed by the NEES personnel which I have outlined in my testimony not only relieves those of us in the Gas Division of much concern for those areas but gives to these companies the benefit of

a broad knowledge developed through years of experience in the gas and electric business. This all leads me to one conclusion and that is that the interests of the public, the customer, the employees and the investor are best served by these companies remaining a part of the New England Electric System. In my opinion, severance of these gas companies from NEES, whether on an individual company or combined basis, would result in a substantial loss of economies which could have most serious consequences.

[1583] Mr. Quarles: Mr. Hearing Officer, I have no further questions to ask of Mr. Dalbeck, and unless—

Hearing Examiner Ewell: Mr. Nowlin, do you have any?

Mr. Nowlin: I have two or three.

*Cross-Examination*

By Mr. Nowlin:

XQ. Mr. Dalbeck, has the State Commission of Massachusetts fixed a rate of return which is generally applicable to the gas companies operating in the state? A. No, sir.

XQ. Do you know what rate of return any of your system companies have been allowed in any recent rate case? A. No, I do not.

XQ. In other words, there is no such thing as the State Commission having generally fixed a rate of return of six and a quarter per cent for gas companies, as is done by the Power Commission? A. No, sir.

XQ. Do you know how your consumer rates—that is, your distribution rates compare with those of the twelve non-affiliated companies that have been mentioned in this record before? A. Yes. Our rates—our eight companies are in the medium range. In other words, we are not the lowest in the [1584] state, and neither are we the highest.

XQ. Now, for example, take one of your companies, where you serve part of an area, and a non-affiliated company serves across the street, let us say. Do you have any

of those instances in Massachusetts? A. Not really. We may have a customer down the street in an area where there might be half a dozen customers.

XQ. Do you have any abutting areas where you can make a comparison of the rates charged by your company with those of non-affiliated companies? A. No.

XQ. What I had in mind is the situation in Pittsburgh, where three different gas companies operate in the city, and in some instances they are across the street from each other? A. We have no situations such as that in Massachusetts. In other words, each town is a franchised area that is allotted to a particular gas company, and there is no conflict.

XQ. Have you made any computation of the return on the invested capital that is being realized on each one of the eight gas companies? A. Well, I haven't a figure on each one of the eight gas companies. I can give you a figure for the combined eight gas companies, for the year 1959.

XQ. All right. A. About six and a quarter per cent, and [1585] for the year 1960, we estimate about 5 per cent.

XQ. Why the reduction? A. The reduction is due to what we brought out in our testimony, the loss of the peak shaving rate from Tennessee which is going to cost us about half a million dollars, increased manufacture for peak shaving, plus wages increases effective January 1, 1960.

XQ. Will that mean you will have to apply for rate increases? A. That is a very good point.

XQ. Now, I asked Mr. Quig—do you have any situations in the eight gas companies where you have developed contingent earnings by virtue of Tennessee Gas, for example, raising its wholesale rate to the companies? A. No, we have no such situation.

XQ. What happens if the Tennessee Gas Company should raise its rate, say, 1 cent per Mef. Do you pass that on im-

mediately to your customers of the eight companies?

A. Not immediately. But if you will refer to the second page of our rate schedule, and I think they are all the same—our schedule provides for a purchased gas price adjustment, whereby with the approval of the Department of Public Utilities, when Tennessee Gas Transmission increases its rate, we can make a corresponding increase to the customer. That is with the approval of the Department. That [1586] also would work in reverse. In other words, if there was a refund by Tennessee, then we would have to, under this price adjustment clause, give that back to the customer in the same manner, so that there are none of these contingent refunds.

XQ. Is that procedure established by the State Commission more or less automatically, or do you have to go through a formal hearing? A. We don't go through a formal hearing. We never have gone through a formal hearing. You may recall in my testimony that I mentioned the fact that we went up and had a conference with the Department of Public Utilities in connection with our eight gas companies, where we applied to them for the approval of escalate our rates coincident with the increase by Tennessee Gas and after discussion with them, and presenting to them the facts of the situation, they did approve the increases.

XQ. Now, how are the eight gas companies financed—the capital requirements? A. Completely through NEES system, and Mr. Hanson.

XQ. Do any of them have debt in the hands of the public? A. Oh, yes.

XQ. Do all of them? A. No, not all. Mystic Valley Gas has bonds out, Lawrence Gas has bonds out, North Shore Gas has bonds out. [1587] I guess that is it.

XQ. Well, some of the others have bank loans, is that right? A. Others are short-term loans.

XQ. Then could we assume that the financial policy is to finance the debt requirements of the gas companies through the sale of debt to the public, rather than to the parent company? A. Well, I think that is something that Mr. Hanson probably can answer better than I.

XQ. Mr. Dalbeck, again directing your attention to a question which I asked a while ago—either I didn't make it clear, or you misunderstood it—according to the maps in the record, I notice that Worcester Gas Light Company serves properties abutting those of Wachusett Gas Company? A. Yes.

XQ. And that Fitchburg Gas and Electric Company also abuts that area?

XQ. Can you tell me how the rates of those two non-affiliated companies compare with the rates of Wachusett? A. Not specifically, but I would say that the rates of Worcester Gas Light Company are comparable with the rates of our companies, particularly the house heating customers.

XQ. Now, as I understand it, all of the gas companies in Massachusetts, non-affiliated and affiliated in the NEES [1588] system, purchase their gas from Tennessee at approximately the same cost, isn't that correct? A. All but one of our companies purchase all of their gas from Tennessee. Norwood Gas purchases from Algonquin Gas Transmission.

XQ. Do these non-affiliated companies purchase their gas from Tennessee at the same price your companies do? A. Yes, sir. The price is the rate by Tennessee for the New England zone, and we all buy at the same price.

XQ. I see. Are all of the rates as far as you know of the non-affiliated and unaffiliated companies two-part rates? A. Yes, it is a filed tariff with the Federal Power Commission. And it is the same rate for all Tennessee customers in New England, both as to demand charge and commodity charge.

Mr. Nowlin: That is all I have, Mr. Examiner, at this time.

Mr. Quarles: Then I would ask that he be excused, subject to recall.

Hearing Examiner Ewell: The witness is excused in accordance with counsel's statement.

(Witness temporarily excused.)

[1589] Mr. Dunn: Your Honor, I would like to recall Mr. Hanson at this time.

Hearing Examiner Ewell: All right.

Whereupon,

HARRY HANSON

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

*Direct Examination*

By Mr. Dunn:

Q. Mr. Hanson, have you reviewed the Ebaseo Supplemental Report on gas severance, offered as Respondent's Exhibit 91? A. Yes, I have.

Q. What was the purpose of the study to which this Supplemental Report relates? A. The purpose of the study was to show the operational savings which could be realized by combination of the eight gas subsidiaries of NEES upon their severance from the NEES system as compared to the costs of operating each of the eight gas companies on an independent basis. However, it leaves unanswered the questions as to financing, tax matters and form of combined operations.

Q. The Supplemental Report shows that there would be only limited savings in the treasury and accounting areas upon combination of the eight independent gas company operations. [1590] Are you of the same opinion? A. Yes, I am. As set forth in that report, there could be some

centralization of general accounting upon combination of the eight gas companies upon severance from the NEES System, but in other accounting areas, I do not believe that centralization would result in any material savings, under existing conditions. The savings in stores accounting, of course, comes from centralization of the purchasing function.

Q. The Supplemental Report states that \$127,000 would be saved in costs of insurance as a result of the eight independent gas companies combining in some form which presupposes 51 per cent stock ownership of the companies by one interest. Are you in accord? A. Yes. This is brought out clearly in the Respondent's Exhibit 92, which has been introduced through Mr. Pearson. Although the increased premiums aggregating over \$280,000 would be reduced by some \$127,000, there is still a substantial increase in premium cost as compared to the premium cost for the eight gas companies as part of the NEES system.

Q. Do the Ebasco Reports cover the financing of the gas companies upon severance? A. No. Their financing is not covered by Ebasco on either an independent company or a combined basis.

Q. Would there be savings in the cost of financing the eight gas companies on a combined basis as compared to [1591] financing the eight independent gas companies following severance from the NEES System? A. Your question is a difficult one in view of the many possibilities as to the form of the combining organization which might be used.

First I'd like to state that as compared to the present situation as part of the NEES System, the eight gas companies on a separate company basis would not realize any savings in financing. In fact, I would expect their financing costs would be higher. Some of the eight independent companies would be quite small and little known in the

financial world. If they were to combine operations through operating or service contracts, there would be little if any savings in financing. If the combining force were to be, say, 51 per cent or more stock ownership by some individual or company, there might be some savings if short term debt for all eight companies were arranged by one person, but in general long-term debt financing would entail eight relatively small and unknown companies seeking funds in the money market.

The use of a holding company as the combining vehicle might or might not produce any savings in financing. It depends in part on the financial strength of the holding company and in part on whether or not the holding company would have debt in its capital structure as well as continuing the present debt in the capital structures of the NEES gas companies, or [1592] whether or not the holding company might replace the debt in the gas companies with debt in the holding company only.

Other possibilities would be enumerated, but I think this is enough to indicate the uncertainties involved in the situation so that one is unable to state with any certainty the amount of savings which might be realized in the financing of the eight gas companies on a combined basis.

In this connection, we should also consider the costs of refinancing existing debt, upon any merger or other combination of the eight independent gas companies or upon substitution of holding company debt for debt in the subsidiaries. In addition to the expenses of refinancing, including the payment of call premiums, there probably would be an increase in the cost of money, in view of the higher interest rates which prevail.

Q. If a holding company were used as the combining form for the gas companies upon severance, would there be consolidated tax savings therefrom which the gas subsidiaries would enjoy? A. This question concerns an

"iffy" area. First of all, before a group of companies are entitled to participate in a consolidated tax return, there must be 80 percent voting stock control by the parent company of each company participating in the return. Even if such were the case, there still would not be any material consolidated tax savings to be shared by [1593] the subsidiaries unless substantial expenses were to be incurred by the parent company itself. Presumably this would be in the form of interest on debt. However, if you will refer to Respondent's Exhibit 85 which was introduced through me, earlier in this proceeding, you will note that the eight gas companies on a consolidated basis already have 46 percent debt in their capital structure. In such a situation, the holding company, if it were subject to this Commission under the Holding Company Act, would have to get approval for the issuance of any debt by it. Rather than give any dollar amounts of consolidated tax savings which the subsidiaries might enjoy from a holding company upon severance from the NEES System, I might put it this way, namely, that for every dollar of expense and interest incurred by the holding company, taxes would be reduced by about 50 cents and probably a portion would be shared by the subsidiaries.

The amount of such savings to be shared by the subsidiaries would depend upon the relation of the holding company's taxable net income to the combined taxable net incomes of the holding company and the gas subsidiaries.

Q. Mr. Hanson, if following separation from NEES, the eight independent gas companies were to combine, what would be the tax considerations other than consolidated tax matters? A. As shown in the Ebasco Supplemental Report upon combinations there would be a decrease in operating expenses. [1594] This would mean less deductions in computing taxable income and, consequently, higher income taxes. In addition, depending on the form of organi-

zation used, there might be a further increase in taxes. Under the Federal income tax laws, each corporation is entitled to a \$5,500 tax exemption, that is, no surtax on the first \$25,000 of taxable net income. If the eight independent gas companies were to combine into one company, or if they were to file a consolidated tax return, only one \$5,500 tax exemption would be available and about \$38,500 would be lost.

Q. Are you in general agreement with the conclusion set forth in the Ebaseo Supplemental Report on Gas Severance and particularly with their summary of changes in operating costs? A. I am.

Q. In your opinion would it be realistic for the summary of changes in operating costs to be followed by a table showing the effect of separation on a gross or net income statement for the combined gas operation? A. Without the establishment of some ground rules, I do not feel it would be realistic to present such a table. This, again, gets into a nebulous area. You don't have any actual income statement for the combined gas operation from which to start. It might be possible to project some such statement, but you would first have to make some assumptions such as [1595] whether the joint operation were part of one corporation or were a part of a holding company system or otherwise. In the absence of some such assumption, you don't know the amounts of revenues or expenses with which you are dealing, you don't know the costs of servicing your capital structure, you don't know the basis on which you should compute taxes, et cetera.

Q. Mr. Hanson, assuming some form of combined operation, are you of the opinion that the Supplemental Report on Gas Severance sets forth an amount of savings in the maximum range which might be realized under present conditions by the eight independent gas companies upon combination? A. I am.

Q. The Supplemental Report reflects the increase in operating costs which the eight gas companies on a combined basis would incur as compared to their operating costs as part of the NEES System. This was arrived at by first developing the operating costs for each of the eight gas companies on an independent basis and then by reducing such costs by the economies of the combination of the gas operations of the eight companies. Would the result have been the same if a form of combined operation had been assumed in the first instance and adjustments made in the present operating costs to reflect the combination set up independent of the NEES system? [1596] A. In my opinion, the result would have been substantially the same.

Mr. Dunn: We have nothing further of this witness.

Hearing Examiner Ewell: Do you have any questions?

Mr. Nowlin: One or two.

#### *Cross-Examination*

By Mr. Nowlin:

XQ. Assuming the combination of the eight gas companies, either in the form of a merged company or in the form of being under the control of a holding company, have you made any comparisons of the estimated cost of such assumed company raising capital, as compared with the present costs of the individual companies? A. Using—

XQ. Assuming either a merger of all the companies, or assuming they are owned by a holding company, wholly-owned, that is all the common stock. And then relate that to any other—relate that to the present cost of raising capital. A. By the second you mean the financing by the holding company?

XQ. No, sir, as you are now doing. If that question is indefinite, I will start over.

Mr. Hanson, as I understand it, the eight subsidiaries of NEES finance themselves through the medium of issuing

debt [1597] securities to the public, and common stock to the parent NEES, is that correct? A. No, it is not. The only companies of the eight that have debt securities owned by the public are Mystic Valley Gas Company, North Shore Gas Company, and Lawrence Gas Company.

XQ. They have bank loans? A. Some of the companies do have short term notes payable to banks.

XQ. Do any of the companies have all the debt and common stock owned by NEES? A. Some do.

XQ. Which ones? Would you identify those? A. Yes. They are all set forth in the exhibit.

XQ. All right, sir. A. It has been presented.

XQ. All right, sir.

What tax advantages do the gas companies get from the ability to consolidate with the NEES System, that they would not get if they were a separate merged company? A. They would completely lose the consolidated Federal income tax savings which they now enjoy, and which as I indicated in my previous testimony amounted to from \$150,000 to \$200,000 a year. If they combined into one operating company, they would completely lose that tax saving.

[1598] XQ. Now, if they were under the control of an independent holding company, what tax advantages would they lose in that circumstance as compared with the present situation under NEES? A. As I tried to indicate, before anything of that kind could be answered, there would have to be ground rules set up as to the form of the holding company, as to what its capital structure was, as to what the consolidated capital structure was, what rates of interest would attach to the securities that might be issued by the holding company, and also what expenses the holding company might have.

XQ. Well, does that mean, then, that the gas companies are obtaining tax benefits by being in the NEES System,

beyond which it contributes to the NEES System? A. Definitely.

XQ. Well, isn't that in effect, then, a subsidization of the gas companies at the expense of the electric consumers? A. No, it is not, because the electric companies also benefit in consolidating tax savings. As I indicated previously in my testimony, the recurring tax benefit to all of the operating companies in the NEES System, both gas and electric, is primarily due to the expenses and the interest charges of NEES itself.

Mr. Nowlin: That is all I have at the present time, [1599]  
Mr. Examiner.

Hearing Examiner Ewell: The witness is excused under the same general conditions.

(Witness temporarily excused.)

Mr. Quarles: Next may I recall Mr. Webster.

Whereupon,

WILLIAM WEBSTER

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

*Direct Examination*

By Mr. Quarles:

Q. Mr. Webster, you have heard, have you not, substantially all of the testimony which has been given in this proceeding by the witnesses representing NEES and Ebasco? A. Yes, I have.

Q. Have you examined the Ebasco Report marked for identification as Respondents' Exhibit 58? A. Yes, I have.

Q. Would you please give us your conclusions with respect to this report and the effect of severance generally? A. In considering the effect of severance of the gas companies, I think it is helpful to consider the losses of econo-

mies and the general impact of severance on the gas companies under three different headings. First, the specific dollar losses with respect to which it is possible to ascertain [1600] the amounts. Second, dollar losses which we know would result, but the amount of which we do not feel can be ascertained with sufficient certainty to warrant projecting a specific figure. And third, losses of a more intangible nature, which, while they can ultimately be expected to have an adverse effect upon the financial condition and operations of the companies, are more in the nature of loss of depth and flexibility, deterioration in services, and general loss of strength, and which represent a serious factor in this case.

Q. Will you first give us your views as to the specific losses of economies as shown in the principal Ebaseo Report? A. From my review of this Report and my general familiarity with the study which is embodied there, I am thoroughly satisfied that the loss of economies which are projected in that report would actually take place in the event that the gas properties were severed from the System and required to operate on an independent basis.

In fact, as I have studied the Report and heard the witnesses who have testified during these hearings, against the background of my own general knowledge and experience with the System, I feel certain that the losses projected in the Ebasco Report represent a generally quite conservative estimate of the direct dollar effect of severance.

Q. Will you tell us now, Mr. Webster, about the dollar [1601] losses which you have described as less clearly determinable? A. I believe these would be very substantial.

For example, the figures in the Ebaseo Report do not include the actual cost of effecting the severance of the gas companies from the System; that is, the operation of separating them, as distinguished from resulting losses. The gas and electric operations are in many respects

closely interwoven. It is obvious that if severance were to take place there would be a considerable period of disruption of the business. Furthermore, the physical separation of gas and electric operations and setting up systems and procedures for future operation would be expensive and this expense would presumably be a charge against future operations of both gas and electric companies, although it would obviously fall more heavily on the gas side.

Turning from these initial expenses to the particular functions which are now performed for the gas companies by the NEES System, it is obvious that financial losses would exceed those shown in the Report.

To take just one example, we can be certain that the 8 independent gas companies would have to pay more for their supplies and equipment if they did not have the advantages of joint large quantity purchasing as part of the broad base which combination with the electric companies provide.

[1602] This in many ways is comparable to the increased cost of insurance but harder to pin down with accurate figures. This same sort of thing repeats itself in many areas of System activity. Wherever experts, specialized services and the benefits of the efficiency and bargaining power of a larger unit are no longer available operating expenses will go up.

Q. Mr. Webster, what are the intangible losses you have referred to? A. A great deal has already been said about this by other witnesses and I will simply mention briefly the principal sort of things which I mean. One clear loss to the gas companies and the electric companies which would fall directly on the consumers is the inconvenience to customers of having to almost double their contacts with meter readers, billing offices and the like.

For the gas companies themselves the loss of the flexibility, depth and specialization which their participation

in the System gives them means that they would not be able to handle special problems as well as they can now.

It is true in our business, as in almost any business, that a job can be done barely adequately or it can be done with excellence. I believe that the availability of Service Company experts now permits the gas companies to enjoy the latter. Upon separate operation there would be many areas where they would of necessity have to fall back on the [1603] standard of bare adequacy.

Another type of intangible loss—although this is one which I believe may well have a fairly immediate dollar impact—is in connection with financing.

As a practical matter, being part of the System enables the gas companies to finance on a more economical basis, particularly in times such as these when money is in short supply.

Q. Would you give us your conclusions with respect to the Ebaseo Supplemental Report marked for identification as Respondents' Exhibit 91? A. As Mr. Dalbeck has stated, the purpose of this further study was to isolate those economies which might be salvaged in the event some way could be found to keep the gas companies together after severance. We recognize that this is a pretty hypothetical thing because at this point there is no basis for any particular assumption as to how they might be kept together; nor even for the assumption that there is a way in which they could be kept together. Nonetheless, we thought it would be useful to have a study on the assumption that all eight of the gas companies could be operated together so that we would have a firm basis for determining which of the losses of economies resulting from gas severance on an independent basis result from separating the gas companies from the rest of the NEES System and which result from separating the gas companies from each other. The supplemental [1604] study

establishes that almost 80 per cent of the total loss of economies stems from the separation of gas from electric. I do not find this conclusion the least surprising and my own knowledge of our System is consistent with it.

The heart of the economies which participation in the NEES System makes available to the gas companies is in the interweaving of the gas and electric operations in the field and the unique opportunity for savings and service which the availability of NEPSCO provides them.

Regardless of how the gas companies are set up after severance, depriving them of these benefits would severely impair their prospects.

Q. Mr. Webster, in your opinion could the gas companies be operated as one or more independent systems without the loss of substantial economies which can be secured by their retention in the NEES system? [1605] A. I am sure they cannot. The Ebasco study and all of the facts which have been brought out in the testimony in this case—and, I think, plain common sense—indicate that the economies lost by the gas companies' removal from the System would be both substantial and serious, whether or not some way could be found to hold them together after severance. "Substantial" must mean substantial in relation to the total situation in which the companies are. The critical economic position of these companies when viewed against the competitive situation in which they find themselves is such that it would simply be folly to deprive them of the economies which they now obtain as part of the NEES System. The economic health of these companies would certainly be seriously impaired by severance, and it is not difficult to conceive of circumstances under which their very existence would be threatened if these economies were lost.

Q. Is it clear to you that the continued combination of the gas properties under NEES control is not so large as

to impair the advantages of localized management, efficient operation and effectiveness of regulation? A. It is completely clear. Taking these tests at one time, our gas companies and our electric companies are set up in such a way as to be responsive to local needs, and to obtain the benefits of local management while still retaining the advantages which centralization and joint [1606] operations provide. I would say we achieve an unusually high degree of localized management on those issues where such localization is important, and the size of the eight gas companies taken together and of the NEES System as a whole does not in the slightest impair the advantages of localized management.

Q. How about efficiency of operation? A. I do not think I have to elaborate on this. What has been said shows that we have those functions which can be best performed on a local basis or best performed on a basis of separating gas from electric, performed on such basis, and that we combine operations where such combination is advantageous. In my opinion, neither the gas companies taken together, nor our System as a whole, is so large as to impair efficient operation—on the contrary, our size makes for efficiency.

Q. How about effectiveness of regulation? A. Back in 1957 in the earlier phase of this proceeding, I described in some detail the regulation of our company by various regulatory authorities, and in the current hearings the Chairman of the Massachusetts Department of Public Utilities and Mr. Dalbeck have testified in regard to regulation of our gas companies. It is my opinion that by being part of the NEES System and obtaining the benefits which that brings in terms of specialized knowledge and service, [1607] these gas companies, as well as our other companies, are more amenable to effective regulation than they would be if they were forced to go off on their own. In my opinion, the over-all size of the gas companies taken to-

gether, and of the System as a whole, does not impair the effectiveness of regulation. It seems to me that the testimony of the Chairman of the Massachusetts Department of Public Utilities pretty well disposes of this question, if there is one.

Q. Mr. Webster, will you give us your general conclusions as to the significance of this proceeding and what the impact of severance would be on the NEES gas companies? A. In short, severance would destroy the benefits of years of reaching for the best possible way to operate the gas companies as part of the System. As is amply clear from the testimony which has been given here, this has not been an easy process nor has it taken place overnight. It is a process which is still going on. What has been done to date represents the result of years of careful analysis and continuing efforts to make improvements and achieve economies where this is possible.

I am sufficiently familiar with the background of the Public Utility Holding Company Act to be certain that it was never intended that the destructive effects of severance would be visited upon a group of companies unless their being together was detrimental to consumers or investors, or the [1608] public generally. There is not the slightest evidence either in the record or in common sense that the combination of our gas and electric utilities is in any way detrimental or that there will be any material benefit to be derived from separation which would offset its disastrous effects. None of the evils which the framers of the Act were seeking to eradicate exist in our System. Only the gas companies' competitors would be helped by severance. Our Board of Directors and top management would not have authorized the expenditure of so much money and energy in preparing our case and opposing separation if we did not sincerely believe this.

Q. Thank you, Mr. Webster.

[1609] Mr. Quarles: Mr. Hearing Officer, I have no further questions to ask of this witness and no further testimony to offer at this time. I have rather expected at this time to be able to say that our case was in, subject to anything that might be developed on cross-examination, but in view of the fact that rulings have been reserved on several important exhibits, obviously I could not make that statement in this posture of the case.

I would suggest, therefore, subject to any questions that Mr. Nowlin has, that we await further developments, and then resume when there have been determinations, or when the staff and we have worked out some procedure that will move the case along.

Hearing Examiner Ewell: Do you have any questions of Mr. Webster?

Mr. Nowlin: I have two or three, Mr. Examiner.

#### *Cross-Examination*

By Mr. Nowlin:

XQ. Mr. Webster, during the course of the testimony this afternoon, reference has been made to the future growth possibilities of the gas companies almost being entirely reliant upon the development of house heating load. Do you concur in that observation made by some of the witnesses? A. I certainly feel that the house heating load is the key to the growth of the gas companies, yes, sir.

[1610] XQ. Now, with the advent of your competitive situation between the electric companies, attempting to develop their house heating load, and the gas companies attempting to develop their load, where does that leave the management of the company, insofar as pressing or promoting the sales of the gas or the electric? A. Well, the management of the company hopes that both the gas and electric companies will press for the ultimate amount of house heating they can get. But for a considerable

period, any electric house heating is quality business, and the real competition of the gas companies is going to come from oil.

XQ. Where does that leave the management? In other words, assuming that your house heating load is pretty closely the same cost as the gas heating load. A. Well, the electric house heating load is not the same cost as gas, of course. It is a quality business.

XQ. Not at the present time. It is my understanding you are putting in promotional rates for electric heating service. A. That is right. But they will still not be competitive on the same house for the same heat.

XQ. Do you know approximately how much difference there would be? A. It depends on too many different things. I know that [1611] that is the quality house heating, so to speak, and that it would be a long time before it is sharply competitive with natural gas for house heating, if natural gas can hold its present rates.

XQ. In other words, you could not give us an estimate, if you take an assumed new 8-room house, and your electrical man were going to sell them on the basis of electric heating, and the gas man on the basis of gas heating, you couldn't tell how much differential there would be between the two types of services? A. I would rather not take a stab at that.

XQ. Would it be substantial? A. It would be substantial, I believe, at the present time, but it depends on so many—when you come to a comparison of electric house heating, your qualities are apt to be—it takes so many different things. The first cost of the heating equipment, and things like that, that it is very different from the competition from gas and oil.

XQ. Well, now, isn't the primary interest of NEES to protect and promote its electrical service? A. Absolutely.

XQ. In other words, if it had to choose between the

gas and electric, its primary, major investments are in electric properties, and you would naturally tend to favor it? A. No, sir. I must agree that the major investment, of [1612] course, is in electric companies. But we have succeeded in building up these gas companies, giving them their head, by urging them to go out and get all the sales they can. And I am certain that that will continue to be our interest, that the NEES stockholders will benefit best by the success of the gas companies getting all the business they can, in a free swinging competition with electric, oil, or whatever the competition is.

XQ. Well, now— A. That is, I do not regard the fact that we have gas and electric service in the same town as being a bit different from areas—this is in our competitive position—from areas in which the other service is conducted by a non-affiliated company.

Hearing Examiner Ewell: In other words, there is no conflict of interest?

The Witness: I feel there is absolutely no conflict of interest, sir these—

Hearing Examiner Ewell: To use a word that is much quoted.

The Witness: In watching the business for 30 years.

Mr. Nowlin: Frankly, Mr. Examiner, I find it very difficult—if I had \$100 in one pocket, and \$1 in the other pocket, I would protect the pocket with the \$100.

Mr. Quarles: If I had \$100 in one pocket, and \$1 in [1613] the other, I would protect them both.

By Mr. Nowlin:

XQ. In view of this potential peril, Mr. Webster, to the operation of these gas companies, not only with respect to your eight companies, but the other gas companies in Massachusetts, what is the future for these gas companies out there if the gas rates continue to rise? A. Well, as I have said in the early part of my testimony, I think this

is extremely marginal, and the only good management and taking advantage of every possible economy, will permit these gas companies to stand a competitive position, and remain profitable.

XQ. Of course it is pretty much a conjecture, in asking you to say what you would do certain things developed, but if the price of gas were to become vitally important to the operation of these gas companies, and you are not able to compete for the oil or electric heating, what would the management do then? In other words, would you continue to own and operate these gas companies at the expense of the electric consumer? A. I think all I can say is you would do the best thing that seemed in order to the circumstances at the time. This is a dilemma which would be very unpleasant.

XQ. Well, now, how are the independent non-affiliated gas companies able to operate apparently profitably and efficiently, without the advantage of a holding company? A. Well, first, some of them have gone bankrupt, as the Chairman of the Massachusetts Department of Public Utilities testified yesterday. Others are—it wouldn't be fair to say just a jump ahead of the sheriff, but they are unable to give the service we think we give, and they are probably closer to the line. They face a more serious competitive position than ours, operated as we are now handling it.

XQ. Are any of the larger companies, independent gas companies, in Massachusetts, experiencing difficulty with rendering adequate service and financing themselves, that you know of? A. I am not in a position to answer that.

Mr. Nowlin: That is all I have at the present time, Mr. Examiner. I just wanted to feel your philosophy out.

Hearing Examiner Ewell: All right. I presume Mr. Webster is excused under the same condition as the others. (Witness temporarily excused.)

Hearing Examiner Ewell: Well, gentlemen, do you still feel the same way about reserving the ruling on these two exhibits, and on the other material that stands on the same footing? I am willing to make the ruling now, if anybody [1615] presses for it. I think in the off-the-record discussion awhile ago that the matter might be deferred. Do you still feel that way about it?

Mr. Quarles: I feel as previously indicated, that we should have the exhibits and the testimony all admitted, and should be admitted as soon as Mr. Nowlin has had an opportunity to do whatever cross-examination he thinks necessary. I am not pressing for an immediate ruling. I would certainly want to have an opportunity, if I could, of presenting a brief before you ruled against us on the admission of the vital ones. On the whole, I feel that the suggestion made earlier of leaving the case in its present position until there has been an opportunity for the staff to examine the total record, for us to supply the staff with any additional information that they need—and we can furnish in an informal and off the record basis,—and until together we can work out some plan for getting the substantive issues in this case up before the Commission for final determination without any unnecessary hardship on either side, and without the necessity of unnecessarily prolonging the hearings, whether by reason of cross-examination on areas that later prove to be irrelevant, or by reason of our having to duplicate relevant evidence that is already in.

Hearing Examiner Ewell: Just a minute. We are not quite finished. Now, if these gentlemen want to [1616] leave—I would like to have the hearing come to order if they are not going to leave. If they want to leave now, that is perfectly all right. But it is difficult to dispose of these matters with people milling about.

Mr. Nowlin: Well, Mr. Examiner, I feel, as I indicated

earlier today, that the best purpose for all people concerned would be served by leaving these exhibits marked for identification that are in question, until we have had a chance to go over and look at the different documents and reach a more enlightened judgment as to what is involved.

I say we have been operating off the cuff here for the last three or four days. We just are not in a position to express any intelligent judgment.

Hearing Examiner Ewell: All right. So you go along, generally, with the position outlined by Mr. Quarles?

Mr. Nowlin: As I understand it.

Hearing Examiner Ewell: In deferring the matter until after you have had an opportunity to examine the material?

Mr. Nowlin: That is right. We are going to have to cross-examine. We are not going to lose any time by waiting to offer these and accept them then as well as now, and it might save some contentions among counsel as to the relevance of them.

Hearing Examiner Ewell: All right. I just wanted to be sure there was no change in position.

[1617] Mr. Nowlin: I would like to ask on record of Mr. Quarles, as I indicated off the record earlier in the day, if in the course of this recess the staff should reach a fairly definitive view as to the confines of this single integrated system, assuming that we should conclude you did have a single integrated gas utility system, if you have any objections or if you would join the staff in requesting the Commission, if deemed necessary, to issue a statement of conclusions as to that effect, all with the view that upon reconvening of the hearing, that it would probably reduce the scope of the cross-examination considerably. I don't know that that can be done. I just say it is a potential possibility that when we get into this we may think they have established a record here which would justify their

being treated as a single integrated gas system. I say if that were—if we did come to that conclusion, and wanted to make the representation to the Commission that they make a finding, or if we could agree on it, so that we could delineate and probably reduce the scope of the cross-examination in the case.

Hearing Examiner Ewell: Do you have any comment on that?

Mr. Quarles: If the staff reaches that conclusion, I would certainly be happy to discuss it and to give very serious consideration to such a proposal. And to cooperate with [1618] the staff in working out any procedure that would cut down the amount of examination and cross-examination, so long as it doesn't prejudice my opportunity to urge any of the things that we have regarded as being important.

In a word, I would welcome the opportunity to discuss any proposal the staff has to make whenever they are ready to make it.

Mr. Nowlin: Well, I don't know that we will have one, but there is that possibility.

Hearing Examiner Ewell: Are both sides satisfied with the posture of the matter?

Mr. Nowlin: I have submitted, and he has answered.

Hearing Examiner Ewell: All right. I suppose the next order of business is to—

Mr. Nowlin: I would suggest, Mr. Examiner, that in view of the voluminous record we have here, that we would probably save time for everybody if we were to adjourn the hearing or recess the hearing, whichever you want to do, subject to the call of the Examiner, or upon further order of the Commission.

Hearing Examiner Ewell: Well, now, off the record.  
(Discussion off the record.)

Hearing Examiner Ewell: Let the record show that [1619] the hearing in this matter is recessed subject to call of the Hearing Officer or the further order of this Commission.

(Whereupon, at 5:30 p.m., hearing in the above-entitled matter was recessed subject to call or further order of the Commission.)

#### PROCEEDINGS

[1621]<sup>11</sup> Hearing Examiner: The hearing is convened subject to the call of Mr. Ewell, issued in his letter of February 24, 1961, setting this date and hour as the time for the resumption of hearing.

Mr. Ewell, while out of the hospital, is still unable to appear and the Commission has designated me to serve in his stead.

You may proceed, gentlemen.

Mr. Nowlin: Mr. Examiner.

[1622] In an effort to clarify and expedite the disposition of some of the controversial matters in the proceeding before undertaking initial cross-examination of Respondent's witnesses, I would like to summarize some of the pertinent background facts.

In August, 1957, the Commission issued its Notice of and Order for hearing pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 in respect of New England Electric System and its subsidiary companies, and designated six specific matters and questions for consideration, the first of which was "Whether the electric utility assets of the New England Electric holding

[<sup>11</sup> In preparing the record in this case the Commission has re-numbered the transcript pages following page 1619 (transcript pages 1620 through 2346) as 1619-1 through 1619-745, in order to fit those pages into its numbering system for other documents in the record. The transcript page numbers referred to in this Appendix are in all cases the original page numbers used by the reporter.]

company system constitute a single integrated electric utility system or more than one such system." Holding Company Act.

Public hearings were held and devoted exclusively to this particular issue. Upon completion of the record in respect of this particular issue the Commission issued its Findings and Opinion, concluding that the electric utility assets owned and operated by the subsidiaries in the NEES holding company system met the definition of an integrated public utility system as applied to electric utility companies set forth in Section 2(a)(29)(A) of the Act. Concurrently, the Commission entered an order dismissing the Section 11(b)(1) proceeding insofar as it related to the issue of whether the electric utility assets constitute a single integrated public-utility [1623] system. The Commission's Findings and Opinion are reflected in 38 SEC at page 93.

Thereafter the hearings were reconvened for the purpose of completing the record in respect of the five remaining issues.

Now I will concede, Mr. Examiner, that the order for hearing does not specify that evidence should be devoted initially to a particular issue to the exclusion of another, yet the sequence in which the issues are posed does indicate an orderly pattern for the presentation of evidence. As an illustration of this point—the first remaining issue scheduled in the Notice of and Order for Hearing is:

Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

On previous occasions the Commission has held with court approval that gas and electric properties could not together constitute a single integrated public utility system; and counsel for Respondents has indicated at page 598 of the transcript that he no longer contends that the gas

utility companies in the NEES system could be retained as a part of the NEES single integrated public utility system. Thus, the first order of business at the reconvened hearings was the determination of the present status of the gas utility companies in the NEES system, i.e., do they constitute one or more integrated systems. A major portion of Respondents [1624] direct case was based upon the assumption that the eight gas companies constituted eight separate integrated systems, and Respondents sought to establish the estimated loss of economies that would occur in the event of their individual severance. However, the record does contain opinion testimony of officials of NEES that the gas companies constitute a single integrated gas utility system and, as I will indicate later, the staff has reached the same conclusion. Since a determination of the status of the eight gas companies is a prerequisite to the application of the standards of Clauses (A), (B) and (C) of Section 11(b)(1) of the Act, the unanimity of opinion that the gas companies constitute a single integrated gas utility system should expedite the proceedings.

The second remaining issue is as follows:

The nature, extent and location of the 'single integrated public utility system' of the New England Electric System holding company system;

This issue is concerned with the identity of the single integrated public utility system which, under the Act, NEES may continue to control. On previous occasions such single integrated system has been characterized in the Commission's findings and opinions as the principal integrated public utility system. According to the record (Tr. 597 and 610), the Respondents have selected the electric utility assets in the NEES system, concerning which the Commission has previously found to constitute a single integrated public utility system, [1625] as their principal system. Isn't that correct, Mr. Quarles?

The third remaining issue is:

Whether, in addition to the New England Electric System holding company system's 'single integrated public-utility system', any of its additional electric or gas utility systems may be retained under common control under the provisions of Section 11(b)(1) of the Act, specifically Clauses (A), (B) and (C) therecf;

Since the eight gas companies in the NEES system are all located in Massachusetts, the principal question posed by this issue stems from Clause (A) of Section 11(b)(1), which provides that additional integrated utility systems may be retained under common control with the principal system if severance would result in a substantial loss of economies to the additional system. From the staff's viewpoint this is the principal remaining issue in the proceeding. Although the answer seems obvious, I would like to inquire further of counsel for the Respondents as to whether, in the event of an ultimate determination that the principal integrated electric utility system and the integrated gas utility system in the NEES system, cannot be retained under common control under the provisions of Clauses (A), (B) and (C) of Section 11(b)(1), which of these interests would NEES elect to retain? The answer is obvious.

Hearing Examiner: Off the record.

[1626] (Discussion was had off the record).

Hearing Examiner: On the record.

Mr. Quarles: As we have previously stated, we regard the electric utility system as our principal system and of course, that is the one we would like to retain if the gas and electric properties had to be separated.

Mr. Nowlin: Thank you, Mr. Quarles.

The fourth remaining issue is:

Whether any of the non-utility businesses conducted by the New England Electric System holding com-

pany system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

This issue is concerned with the retainability of any non-utility businesses in the NEES system which, in this case relates to the New England Power Service Company—there being no other non-utility business in the system. Under the provisions of Section 11(b)(1) of the Act, the non-utility businesses may be retained if they are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public utility system or systems retainable under common control.

The fifth and last issue is:

What action is necessary to be taken by the New England Electric System holding company to limit the [1627] operations of the system to those of a single integrated public utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of Section 11(b)(1) of the Act;

This issue is concerned with the action, if any, that is necessary to be taken by the NEES holding company system to bring it into conformity with the provisions of Section 11(b)(1) of the Act. Of course the action to be required cannot be prescribed until the status under the Act of the electric and gas operations and non-utility businesses is determined. In this instance counsel for Respondents has indicated that if the electric and gas operations cannot be kept together, NEES would dispose of the gas companies. If, therefore, the service company can be retained with either the integrated gas utility system or the principal integrated electric utility system, I assume NEES would elect to retain the service company, together with the

principal integrated electric system. Is that correct, Mr. Quarles?

Mr. Quarles: That is correct.

Mr. Nowlin: Now, Mr. Examiner, Respondents have attempted to meet the foregoing issues and sustain their affirmative burden of satisfying the applicable statutory provisions by the offer of oral and documentary evidence at previous hearings. The oral testimony, extending over 1008 pages of [1628] the transcript, was given by six officials of NEES system companies, and by five officials of Ebaseo Services Inc. who had been employed or retained by NEES to make various studies of the NEES system and testify in the pending proceeding. In addition thereto, 102 exhibits were offered and all but three were received in evidence. These three exhibits, marked for identification as Nos. 58A, 58B and 91, were the subject of objections by Counsel for the Division of Corporate Regulation and a ruling on their admissibility was reserved by the Hearing Examiner. As yet these three exhibits are not in evidence.

Exhibit 58A entitled "New England Electric System, Gas Severance Study, Volume I", was prepared by Ebaseo Services Inc. and consists of 833 pages of narrative, financial and statistical data in respect of the gas operations of the eight NEES gas companies, including the gas department of Lynn Gas and Electric Company. This exhibit and related testimony assumed that the eight gas companies were eight separate integrated gas utility systems and sought to establish the losses that each would incur if independently severed from the NEES system. The receipt of this exhibit in evidence was objectionable on the grounds that it constituted a mass offer, was not responsive to the issue of whether or not the gas companies constituted a single integrated gas utility system or systems and was therefore irrelevant and [1629] immaterial.

During the recess of the hearings in the proceeding,

members of the staff of the Division of Corporate Regulation have reviewed the contents of Exhibit 58A and the transcript of the related testimony and are of the opinion that Exhibit 58A, together with other data in the record, warrants a conclusion that the gas utility companies in the NEES system, namely, Central Massachusetts Gas Company, Lawrence Gas Company, The Gas Department of Lynn Gas and Electric Company, Mystic Valley Gas Company, North Shore Gas Company, Northampton Gas Company, Norwood Gas Company, and Wachusett Gas Company, constitute a single integrated gas utility system as defined in Section 2(a)(29)(B) of the Act. At an appropriate time the Division of Corporation Regulation will urge the Commission to make such determination. Accordingly, the Division is in agreement with a statement on the record by Counsel for the Respondents and the opinion testimony of officials of NEES and also that of the Chairman of the Department of Public Utilities of Massachusetts that the gas companies of NEES do constitute a single integrated gas utility company.

Despite the fact that a large portion of the Respondents direct case was directed toward establishing the eight gas companies as separate integrated gas systems and the loss of economies that would occur in the event of [1630] their individual severance from the system, the staff is of the opinion that a major portion of the narrative, statistical and financial data in Exhibit 58A is relevant to a determination of whether or not the gas companies constitute a single integrated gas utility system or systems under Section 2(a)(29)(B) of the Act; and, in addition, Exhibit 58A contains some basic figures and statistics that are relevant to an ultimate determination as to whether there would be a substantial loss of economies in the event of severance of the single integrated gas utility system. Accordingly, the staff's previous objection

to the receipt in evidence of Respondents' Exhibit 58A is hereby withdrawn.

In this connection, however, counsel for Respondents has indicated on the record (Tr. 1209 through 1229) that the estimated loss of economies of each of the gas companies was relevant because in the event of their ultimate severance from the NEES system the management may elect to dispose of the gas companies separately or in combinations of two or more, even though the eight companies were found to constitute a single integrated gas utility system. The Division contends that the method selected by Management for complying with a Section 11(b)(1) divestment order, perhaps one or two years after the entry of an order, is irrelevant and immaterial to the present issue of whether or not the severance of the single integrated gas utility [1631] system from the NEES system would result in the loss of substantial economies within the meaning of Clause (A) of Section 11(b)(1). Therefore, in withdrawing our objection to the receipt in evidence of Respondents' Exhibit 58A, I want it clearly understood that the staff is not conceding the validity of the position taken by counsel for Respondents in respect of this matter.

Respondents' Exhibit 58B, concerning which the Hearing Examiner reserved a ruling, was prepared by Ebasco Services Incorporated, and is entitled "New England Electric System—Gas Severance Study, Volume II." It contains 624 pages of narrative and statistical data regarding the estimated loss of economies that would occur to the electric utility companies and to the service company in the NEES system in the event of the severance of the eight gas companies from the NEES system.

Respondents' Exhibit 91, concerning which the Hearing Examiner reserved a ruling, was prepared by Ebasco Services Incorporated and is entitled "New England Elec-

tric System—Supplemental Report on Gas Severance—Combined Operations of Eight Gas Companies." It contains 40 pages of narrative and statistical data regarding the estimated loss of economies that would be incurred by the eight gas companies on a combined basis in the event of severance from the NEES system.

The basis for the staff's objection to the receipt in evidence of Respondents' Exhibit 58B was previous decisions by [1632] the Commission that the losses in economies which may be considered under Clause (A) of Section 11(b)(1) are limited to those directly related to the additional system sought to be retained and not to the principal system. In support of this objection, attention was directed to the following cases:

Philadelphia Company et al., 28 S.E.C. 35, 52 (1948),  
aff'd sub. nom. Philadelphia Company v. S.E.C.,  
177 F.(2d) 720 (C.A.D.C. 1949),

The North American Company, 11 S.E.C. 194, 208  
(1942), aff'd sub nom. The North American Com-  
pany v. S.E.C., 133 F.2d 148 (C.C.A. 2d 1943) 327  
U.S. 686 (1946),

Middle South Utilities Inc. et al, 35 S.E.C., and cases  
cited at p. 13 (1953).

Upon review of Exhibit 58B, the staff has noted that some of the narrative, financial and statistical data therein is intermingled with and pertinent to some of the basic data reflected in Respondents' Exhibits 58A and 91. By reason thereof and in order to expedite the proceeding by avoiding the task of identifying, extracting and reintroducing of the particular relevant items, the staff is withdrawing its objection to the receipt in evidence of Respondents' Exhibit 58B. Again, I want to make it clear that in so doing the staff maintains its initial position that to the extent this exhibit is used to establish a loss of economies to the electric companies and to the service [1633] com-

pany in the NEES system, it is irrelevant and immaterial.

The staff concedes the relevancy of Respondents' Exhibit 91 and withdraws the objection to its receipt in evidence.

At the present time the staff does not intend to cross-examine any of the Respondents' witnesses in respect of the estimated loss of economies to the eight gas companies on an independent basis or the effect of their severance upon the electric companies or to the service company in the NEES system. Having concluded that the eight NEES gas companies constitute an integrated gas utility system, the first order of business, as we see it, is to proceed to the exploration of those matters pertinent to a determination as to whether the severance of the integrated gas utility system would result in a substantial loss of economies to such system.

[1634] Accordingly, I would like to recall to the witness stand for cross examination, Mr. C. D. Pearson, of counsel for respondents has nothing to the interim.

Mr. Quarles: Mr. Examiner, if I might take care of one or two minor items before proceeding with the cross examination, I would appreciate the opportunity.

Hearing Examiner: Very well.

Mr. Quarles: First, since the staff has withdrawn its objection to Exhibits 58-A, 58-B and 91, I would ask that they now be received as exhibits in evidence.

Hearing Examiner: Those three exhibits, of course, were offered at the time Mr. Ewell was presiding over this hearing, but I now understand the objections have been cleared up and that there is no objection to the admission of these three exhibits.

Accordingly, Respondent's Exhibits 58-A, 58-B and 91 are admitted in evidence.

Mr. Quarles: Thank you.

(Respondent's Exhibits 58-A, 58-B and 91 were received in evidence.)

Mr. Quarles: In examining the transcript, we found some errors, some of which seem to be sufficiently material to warrant a correction of the record.

We have prepared a memorandum of the proposed [1635] and understand that he approves. We would, accordingly, now move that the record be corrected as set forth in this memorandum.

Hearing Examiner: It seems to me that a good way to handle this matter of corrections is to have this memorandum made an exhibit in this proceeding.

Mr. Quarles: Then I would offer it as Respondent's Exhibit No. 103.

Hearing Examiner: The memorandum is admitted in evidence as Respondent's Exhibit No. 103.

(Respondent's Exhibit No. 103 was marked for identification and received in evidence.)

Mr. Nowlin: I might add, that I have gone over and checked these errors, and I have no objection to the corrections.

Hearing Examiner: I so understood, Mr. Nowlin.

Mr. Quarles: Last May, we introduced an exhibit which included estimated 1960 income statements of the gas subsidiaries of NEES. It seems appropriate at this time, to supplement that with an exhibit that would show the actual figures, and if Mr. Nowlin does not object, I would like to recall Mr. Hanson solely for the purpose of introducing that exhibit.

Hearing Examiner: Very well.

[1636] Whereupon,

HARRY HANSON

was recalled as a witness, and was further examined and testified as follows:

Mr. Quarles: Mr. Hanson has previously testified and been sworn.

*Direct Examination*

By Mr. Quarles:

Q. Mr. Hanson, I show you a sheet entitled, New England Electric System, Massachusetts Gas Subsidiaries, Consolidated Income Statements for the year ending December 31, 1960.

I ask you to describe it. A. This sheet which was prepared under my supervision includes the actual income statements for the year 1960 of each of the present gas subsidiaries as included in the NEES consolidated income statement, and in the last column an income statement of those subsidiaries, consolidated for that year.

I would like to point out that this sheet shows consolidated net income before dividends of \$1,857,501, but if we exclude surplus credits carried in the consolidated statements, as reduction of maintenance expense, the consolidated net income applicable to the year 1960 is \$1,753,813 which compares with the \$1,615,900 that we [1637] estimated in the early part of 1960 and which was set forth in Respondent's Exhibit at No. 87.

Q. Is this statement true and accurate to the best of your knowledge and information? A. It is.

Q. Mr. Quarles: I would offer this as Respondent's Exhibit No. 87-A.

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Hanson, directing your attention to the last column on the right hand side of this exhibit, I notice the heading, Gas Subsidiaries Consolidated.

In effect, is this gas combined, rather than gas consolidated? A. It is gas combined but certainly, so far as for all practical purposes, it is also consolidated.

Hearing Examiner: Is there any objection to the receipt in evidence of this exhibit?

Mr. Nowlin: I have no objection.

Hearing Examiner: The exhibit is admitted as Respondent's Exhibit 87-A.

(Respondent's Exhibit 87-A was received in evidence.)

Mr. Quarles: Mr. Examiner, I have nothing further at this time. Since, however, counsel for the staff has [1638] made it clear that his withdrawal of objections to certain of our exhibits was not to be interpreted as agreeing with some of our contentions, I would like to make it equally clear that in accepting the withdrawal and in offering these exhibits, we are not to be deemed thereby to agree with his philosophy or to accept his interpretation of the significance of the evidence or the purpose for which it is relevant.

Hearing Examiner: Thank you.

Whereupon,

C. W. PEARSON

was recalled as a witness, and was further examined and testified as follows:

*Direct Examination*

By Mr. Nowlin:

Q. Now, Mr. Pearson, I think maybe the record may reflect this but would you mind restating the scope of the study you made on behalf of Ebasco? A. I first studied the insurance program as NEES had it in effect for the gas companies during the year 1958. After that, I worked out the individual premiums for the individual gas companies. From then, from that point, I worked out the consolidated program for the eight companies, for the individual forms of insurance and worked it on a basis that the individual [1639] companies and the consolidated operation would have approximately the same program as NEES had in effect in 1958.

Q. Now, from whom did you get your instructions regarding the conduct of this study? A. From Mr. Quig.

Q. Did you get any instructions from officials of NEES regarding this? A. No. I was under the instruction of Mr. Quig.

Q. I believe you said you made a study of the actual coverages of the NEES companies as they were in 1958? A. That is true.

Q. Did you make any independent study or attempt to evaluate these insurance coverages to determine whether or not they should be supplemented or curtailed? A. The only evaluation that I made was the possibility that the smaller companies could not obtain as full a program as they have under the NEES program, and from that, I used, well, judgment factors or experience over the years handling utility risks.

Q. Now, preliminary to undertaking your study for the purposes of reports, did you make an independent survey or evaluation of the insurance coverages actually carried for the NEES companies, in order to determine their adequacy or inadequacy? [1640] A. I reviewed the NEES program and found that it was adequate for the exposures involved.

Q. Did you make that specific study, or was that just a general review? A. That was a general review.

Q. You did not reduce that study to writing? A. No, sir.

Q. Do you know whether or not, Mr. Pearson, the types of coverages for the NEES companies are usually those carried by other gas companies operating in the State of Massachusetts? A. I cannot answer for Massachusetts but they are usual to the utility business, country-wide.

I would presume the Massachusetts companies would be the same.

Q. Then I take it you did not make any actual study or

comparison of the coverages of the NEES companies with other Massachusetts companies? A. That I did not, no.

Q. Now, therefore, you don't know of your own knowledge whether or not the coverages for the NEES companies are the same as those carried by other Massachusetts companies; whether in the same amount or the same type? A. I can compare it with one company, which we are reviewing now, and it is in its infancy, but the coverage that the NEES companies carried in '58 are similar, almost [1641] in every respect to this other company, which we are now reviewing.

Q. But you did not make a comparison with the other Massachusetts companies in general, to determine whether they were similar or not? A. No, sir. I did not.

Q. Now, directing your attention to Respondent's Exhibit No. 92. Does this exhibit list all of the insurance coverages for the gas companies in the NEES system, that were in effect in 1958, including the Gas Department of Lynn? A. No. It does not include the group annuity coverages and that is about the only coverage it does not include.

Q. The group annuity? A. Yes, sir.

Q. Would you describe that for us? A. The group annuity?

Q. Yes, sir. A. The group annuity is a retirement program and it was a difficult matter to rate for the individual companies and it was not part of my study, and in fact, it is not my field.

Q. Would you explain a little more in detail what the annuity insurance is? A. Well, the annuity insurance is a guaranteed retirement to employees at the age of 65.

[1642] Q. Would you explain a little more in detail what the annuity insurance is? A. Well, the annuity insurance is a guaranteed retirement to employees at the age of 65.

Q. Do the employees and the company both contribute

to the annuity fund? A. This I don't know. I did not make that study.

Q. In any event, this annuity insurance coverage was omitted from both the actual and pro forma figures on Exhibit 92? A. That is true.

Q. Now, are these various insurance coverages reflected on Exhibit 92, obtained in the form of a blanket policy or separate policy or just how are they covered? A. Well, several of them are under blanket policies. Others are individual policies applying only to gas companies.

Q. In other words, they don't have one blanket policy for the NEES system that is applicable to—I mean, that covers, that reflects all of these coverages for both the gas and electric? A. No, sir.

Q. Could you identify the particular coverages which are applicable to gas and those which are applicable to electric on this Exhibit 92? [1643] A. Well, the water heater warranty bond is specifically gas company coverage.

The legal liability, gas explosion, is specific gas company coverage.

Direct damage gas explosion, which is damage to the company distribution system, applies only to the gas system.

The other coverages are under blanket policies of the NEES system.

Q. Do you mean except for those you have just noted, all of the coverages reflected on Exhibit 92 are applicable to both the gas and electric companies? A. That is true.

Q. Now, could you identify on this exhibit which of these coverages are covered by a separate insurance policy as compared to a blanket insurance policy? A. I don't understand the question.

Hearing Examiner: Off the record.

(Discussion washed off the record.)

Hearing Examiner: On the record.

Q. Now, I would like to withdraw the question for the present moment.

Hearing Examiner: Very well.

Q. Mr. Pearson, from what insurance company or [1644] companies or other sources, are these various insurance coverages obtained? A. Do you wish me to go down the list, sir.

Q. Yes, sir. I wish you would. A. All right.

The All Risk Insurance coverage can be obtained from either casualty or fire insurance companies.

The Automobile—

Q. Pardon me. Are there several of those insurance companies that carry that type of risk? A. Yes, sir. There are quite a few of them.

Q. The next question is: From whom are the NEES companies presently obtaining this type of insurance? A. I would have to refer to my book. I am not quite sure that they are here—if you don't mind, sir.

I am afraid I don't have that information here but I could obtain it very easily, sir.

Q. Do you mean here in the room? A. Yes, sir.

Q. I would appreciate it if would.

Hearing Examiner: Let us suspend for a few moments while that information is being looked up.

(Brief recess)

Hearing Examiner: Let us come to order.

Are you prepared to answer that question, Mr. [1645] Pearson?

The Witness: Practically all. The only two coverages which I am not sure about, the insurance company is the Water Heater Warranty Bond, and the Liability Gas Explosion.

Those two companies, I would have to get up, but I can read down the list and give the U.S. insurance companies covering the rest of the policies.

By Mr. Nowlin:

Q. We are talking about all-risk. A. Providence Washington carries the contents of the motor vehicles, and the Travellers Indemnity has the destruction of valuable papers.

Q. Those are the companies that are actually carrying insurance for the NEES companies? A. That is right, in 1958.

Q. Are there other insurance companies that carry this type of coverage? A. Yes, sir.

Q. Would they be one or two or a dozen? A. Innumerable.

Q. Innumerable? A. Yes, sir.

Q. Now, are the rates charged by these various insurance companies for this type of risk, the same? [1646] A. Not in all cases, sir.

Q. What would the case be in the various areas? A. In some cases, you would—if the risk were large enough—you would get experience rating, and in some cases, the underwriters have the facility of furnishing an equity rating, which is their decision, as to whether the risk is one that they want and they will take it; and furnish them a credit. That is about it.

Q. Now, in making your projected study, did you assume that the insurance coverage—that is, the all-risk insurance coverages—would be used on the pro forma basis without change?

Mr Quarles: Mr. Examiner, possibly the witness understand that question, but I don't.

(The pending question was read by the reporter)

Hearing Examiner: Do you understand the question, Mr. Pearson?

A. I understand the question, but a decision was made here that they would not insure contents of motor vehicles

and under the destruction of valuable papers, that the amount would be reduced.

Q. Except for those notations, you used the same insurance coverage on a pro forma basis that actually is used—was used—during 1958? A. That is correct.

[1647] Q. In the system? A. That is correct.

Q. Now, the next item, Mr. Pearson, on Exhibit No. 92, is Automobile Physical Damage Insurance.

Is that insurance coverage carried by only one company or several companies? A. It is carried by all companies.

Q. Now, do you know which particular company carries that insurance for the NEES System? A. American Universal.

Q. Now, do you know how the rates which they charge compare with the rates that might be charged by other companies carrying comparable coverages? A. The rates that they charged, here again, were on an experience basis, and an equity credit allowed so that the entire schedule of automotive equipment of the NEES companies, carried an individual rate per car, was less than the manual rate shown for the State of Massachusetts.

Q. I see; but you did not make any study or attempt to ascertain whether or not the NEES companies could obtain this insurance coverage at less cost than it was then paying? A. I doubt that they could have.

Q. But you did not make any specific study to [1648] determine if this is the most economical arrangement that they could have? A. I will say that the automobile physical damage insurance carried by NEES is one of the lowest rated policies that I have seen.

Q. I assume that you assumed then that there would not be any economies that would be appreciable in the event that they place that insurance with some other company? A. I doubt very much if they could obtain it.

Q. Now, directing your attention to the next item, com-

prehensive crime, do you know what insurance company carried that coverage? A. St. Paul Mercury.

Q. Now, is that the only company that carries that type of coverage? A. No, sir.

Q. Are there several of those? A. Innumerable.

Q. Did you make any comparison of the rates charged the NEES companies by its present insurers with those that were generally applicable for the other insurance companies, to determine whether or not NEES could obtain this insurance more economically? A. Yes, sir. The St. Paul Mercury actually offers the lowest rates in this form of insurance.

[1649] Q. I see. Now, directing your attention to the Water Heater Warranty Bond which, I understand, that coverage is applicable only to gas companies? A. That is true.

Q. Is there only one insurance company that carries that type of insurance? A. No. There are a lot of companies that are licensed to carry that type of insurance, but very few of them wish to write it because it is a very poor underwriting risk.

Q. Did you make any study to determine in that particular case whether or not this insurance was as economical as it could be? A. That question could be answered at whatever rate you can get the coverage for, that would be the least cost, because here it is a matter of getting the insurance company to take the risk.

Q. Did you review any of the papers of the NEES companies to determine whether or not they had attempted to obtain this coverage from any other insurance companies? A. No, sir.

Q. So that you don't know whether or not they may have made a more economical arrangement than the present situation or not? A. I don't know that, no, sir.

[1650] Q. Now, coming down to casualty insurance, is

that coverage generally available to the NEES system by various insurance companies, or is that rather limited?

A. No. Various insurance companies.

Q. Did you make any study of this particular coverage to determine whether or not the NEES companies might obtain this insurance coverage to determine whether or not the NEES companies might obtain this insurance coverage more economically than it is presently obtained? A. Yes, sir.

Q. What was the result of that study? A. That, on a basis of their rating, it would be almost impossible to reproduce that coverage at the cost that they obtain it for.

Q. Do you know what company that coverage is carried? A. That is with Travellers, sir.

Q. But there are other companies that do carry this type of insurance? A. Oh, yes.

Q. Now, did you make any study of the individual coverages reflected under casualty insurance, that is, as to the amounts of liability, to determine whether or not they were adequate or inadequate? A. Compared with the industry, they were adequate.

[1651] Q. Now, as I understand it, this casualty insurance coverage is applicable to all of these companies, both electric and gas? A. That is true.

[1652] Q. Dropping down under that category of casualty insurance to legal liability gas explosion, I think you stated that was applicable, a blanket policy of gas companies only; is that correct? A. That is true.

Q. With whom is that policy carried? A. That is the company I haven't got. I didn't write it down in my records here.

Q. Does anybody in the room have it? A. Don, would you know what company that is?

I could obtain that for you. It is one of the excess companies and I don't know which one.

Q. Do you know whether or not here are several companies that provide that type of coverage? A. This is a very limited field of underwriting.

Q. Would you say there are two or three or just how many? A. I think your estimate is a good one.

Q. Did you make any study or comparison of the rates charged by the present insurer for the NEES companies with that which might be obtained from any other insurance company? A. Yes, sir.

Q. And what was your conclusion? A. That this is written at about 50 per cent of the normal rates.

[1653] Q. Now, going on down the list to explosion insurance. I assume that the boilers, air tanks and so forth is applicable to both the gas and electric; is that right? A. Yes, sir.

Q. And the direct damage gas explosion is only a blanket coverage for the gas company; is that correct? A. That is true.

Q. Now, who carries that? What company provides that insurance? A. The boilers and air tanks, et cetera, coverage is with the American Motorist Insurance Company. The direct damage gas explosion is with the Insurance Company of North America.

Q. Are there several insurance companies that provide that type of coverage? A. Yes, sir.

Q. Did you make any comparison of the cost of this insurance to the NEES Company? A. Yes.

Q. What it would cost with other companies? A. Yes, sir.

Q. And what was the result of that conclusion? A. The American Mortorist is the lowest premium writing company as respects this form of coverage and the Insurance Company of North America is a company with whom you negotiate [1654] this form of coverage, which is a limited market

for the form of coverage and they are one of the low premium writers of this form of coverage.

Q. Now, your next item is extra expense insurance.  
A. Yes, sir.

Q. Do you know the company which provides the coverage for NEES? A. National Fire, and here this is a blanket coverage for the gas companies.

Q. Did you make any analysis of this particular coverage to determine whether it could be obtained more economically? A. Yes, sir.

Q. I might ask you the same line of questions with respect to the next four items, if you want to take them up and explain them yourself. A. I will do so. The fire, insurance and extended coverage and vandalism and malicious mischief is a blanket policy covering all of the NEES properties and that is carried with the Home, Niagara and National Insurance Companies.

The rents insurance is a blanket coverage for all of the NEES properties that require that form of coverage and that is carried with the Home Insurance Company.

The sprinkler leakage insurance is applicable only to those properties that are sprinkled and that is carried with the Home Insurance Company and the Group, accidental [1655] death and dismemberment and accident and health is carried with Metropolitan.

Q. Do you know, Mr. Pearson, who in the NEES system negotiates or arranges for these various insurance coverages? A. Yes, sir.

Q. Would you identify on the record who it is? A. Mr. Arthur Jillette.

Q. Who is he connected with—the service company? A. I don't know which company. I presume he is with the service company, yes, sir.

Q. Do you know whether or not Mr.—what is it? A. Jillette.

Q. Whether Mr. Jillette made any effort to obtain comparative bids for the various types of coverages now carried by the NEES companies? A. Mr. Jillette is a very astute insurance manager and if he didn't do that, I would be surprised.

Q. But you don't know of anything that you ran across in the course of your study that would indicate that competitive bids were sought for this insurance coverage? A. No, that wasn't within the province of my study.

Q. Did Mr. Jillette agree with you that these actual insurance coverages and costs should be projected into the pro forma figures? [1656] A. I don't know.

Mr. Vorenberg: I am sorry, I don't understand the question.

Mr. Nowlin: Strike the question and let me start over again.

By Mr. Nowlin:

Q. Did Mr. Jillette agree with you that the actual coverages and costs now available to the NEES systems should be projected into the pro forma coverages and costs reflected in your report?

Mr. Vorenberg: I don't think the witness has testified that he took the position you are referring to with respect to the cost, Mr. Nowlin. It is just a question, and I still find the question confusing.

Mr. Nowlin: As I understand it, he just stated Mr. Jillette was an expert in his field and what I was trying to ascertain is that in making his pro forma projections of the coverages and costs did Mr. Jillette agree with you that you should use the actual cost and the coverages that are now available.

The Witness: Mr. Jillette was present when I spoke with various underwriters and underwriter representatives in order to obtain their view on the rates to be used. He was in agreement at that time.

By Mr. Nowlin:

[1657] Q. Agreement as to the pro forma cost? A. He has checked those and it is presumed that he is in agreement.

Q. Did you discuss the pro forma cost with Mr. Jillette? A. Only at the time that I made up the costs and presented it to his department to be reproduced.

Q. Did he raise any questions or objections to your projections? A. None.

Q. Then I assume that Mr. Jillette agreed with the pro forma costs which are reflected in your report? A. That is my presumption, too.

Q. But you didn't ask him to examine these and analyze them to determine specifically in what areas he would agree or disagree with you? A. Not specifically, no, sir.

Q. Do you know, Mr. Pearson, of any utility companies or utility holding company systems that are self-insurers for coverages comparable to those now applicable to the NEES companies? A. Yes, on a primary basis.

Q. Would you identify those for the record? A. Yes. There are quite a few utilities who self-insure on a primary basis up to ten or fifteen or twenty [1658] thousand dollars for liability claims. Some utilities file with the state to become self-insurers for Workmens Compensation and then carry excess coverages above that. In those two fields they would, in some cases, be self-insurers.

Q. Will you explain what you mean by primary costs? A. Well, primary insurance is an amount of insurance—we will say for liability and property damage, it would be in the amount of \$10,000, and they would self-insure that. This would be the primary coverage. The excess insurance they would carry two, three, up to ten million dollars, according to what they thought their requirements were.

Q. Do you know of any reason why some or all of the NEES companies shouldn't be self-insurers for that type

of risk? A. In some cases they are. They have a deductible form of insurance, just a minor amount of a hundred dollars or two hundred dollars, which they handle in a general form of expense, rather than to file a claim with the insurance company.

Q. Now, are those self-insurances taken into account in the projection of your pro forma figures? A. Yes, sir.

Q. Do you know, Mr. Pearson, whether or not Mr. Jillette made any independent analysis or study of the pro forma costs of your study? [1659] A. This I don't know, excepting that he had letters from his insurance representatives on various insurance coverages.

Q. Did anybody in the NEES system indicate any objection to the types of coverages and costs which you came up with on a pro forma basis? A. No, sir.

Q. Does Ebaseo Services, Inc. act as the insurer for any of its clients on any insurance coverages? A. Ebaseo is a service organization, sir, and we don't place insurance nor do we effect insurance.

Q. Does Ebaseo arrange or negotiate insurance coverages comparable to those of NEES for any of its clients?

A. We assist our clients in doing so, yes, sir.

Q. What do you mean "assist"? A. We are not licensed brokers nor agents and we have no position in negotiations. We can assist the client or his broker in approaching insurance companies.

Q. Do you suggest to the clients the particular companies which they should approach in order to get certain types of coverages? A. In general, we know the market fairly well to know where it would be available, yes, sir.

Q. Has Ebaseo, in the past, Mr. Pearson, followed the policy of making mutual arrangements or combining [1660] different non-affiliated companies for the purposes of getting blanket coverages? A. This is true with the old Electric Bond and Share System, yes, sir.

Q. Do you do that now? A. The individual Electric Bond and Share System Companies; that is, the original system companies, do continue these blanket contracts, yes, sir.

Q. And they continue these blanket contracts despite the fact that they are not under common control? A. That is true, sir.

Q. Now, could Ebaseco today arrange blanket insurance coverage comparable to those of NEES with various non-affiliated clients on a blanket basis? A. I doubt it very much, sir.

Q. Let me start over. As I understand it, Ebaseco has about 90 to 100 utility company clients; is that right? A. That is true.

Q. Now, could you take, for example, twenty of those clients and combine them together and obtain blanket insurance coverage for those twenty companies? A. Through foreign insurers this might be available, yes, sir.

Q. Now, do you do any of that? A. Some of these companies do, yes, sir.

[1661] Q. Do you know how the costs for those blanket policies compare with the cost for the comparable blanket policies on the NEES system? A. Yes, I do.

Q. State what it is. A. Primarily we are talking about the legal liability gas explosion coverage, which is the item under casualty insurance. This is a form of insurance that the underwriters at Llyod would write for a group of companies that are not associated. The coverage for NEES is written at an approximate rate of eleven cents per hundred dollars of revenue for three years.

I am very sorry; I am speaking of excess of primary insurance, excluding the gas explosion and that was written —that is the one at eleven cents and that comes up with a three year premium of approximately \$24,000, or \$8,000 annually, which is shown here in the pro forma figures.

That is a very low rate. Applying this in general to utilities, with the volume of revenue which these gas companies have, that rate would be somewhere around ten to twenty cents annually instead of eleven cents for three years. The legal liability gas explosion is a negotiated rate and is shown there at \$38,450.00 and that is approximately 50 per cent of manual, manual rates, as the Travelers would issue that coverage. This compare very favorably with those clients with whom [1662] we have associated.

Q. Well, now, again taking a supposition, could Ebasco take twenty of its utility clients, non-affiliated clients, and arrange blanket insurance coverage comparable to those reflected on Exhibit 92 for the NEES companies? A. As respects the excess insurance with foreign insurers, it might be done. I am not saying that it could be done, but it might be done.

Q. Could that arrangement be made for the personal injury and property damage insurance coverage reflected on 92? A. No, sir.

Q. Why not? A. This cannot be done for any of the individual companies. They have to follow the rules and regulations within the state that they operate and those rules and regulations will not allow a blanketing of that form of insurance for unassociated companies.

Q. Are the personal injury and property damage coverages reflected on Exhibit 92 placed with the Travelers Insurance Company? A. That is true.

Q. Both actual and pro forma? A. The pro forma coverage has not been placed and we are just taking the manual rates and allowing a credit under [1663] that for the pro forma figures. The insurance has not been placed.

Q. Well, it assumes a continuation of the present arrangements? A. That is true, sir.

Q. And that is at that cost? A. That is at that cost, yes, sir.

Mr. Quarles: Mr. Nowlin, you say it assumes a continuation of the present arrangement. Do you mean the present coverage or actual insurance policies?

Mr. Nowlin: Well, I assume and his testimony is that this insurance is now placed with Travelers Insurance Company and that in projecting his pro forma figures he assumes it would continue to be placed with Travelers Insurance Company. Is that correct?

The Witness: That is true.

Mr. Quarles: But under different policies, of course?

Mr. Nowlin: Certainly you would have to have a different policy for the eight gas companies than you have for a blanket coverage for the electric and gas companies.

By Mr. Nowlin:

Q. While I am on that, what particular feature, Mr. Pearson, do these two coverages, that is, personal injury and property damage, controls the rates that are charged for [1664] that coverage? Is it that aggregate amount of the coverage or the type of coverage? A. No, it is a classification in an insurance manual. This would be under gas companies. I believe the code is 7502. I am not quite sure of that code, but I believe that is so.

Q. What I was attempting to get at here is personal injury is one person, a hundred thousand dollars, one accident, one million. Suppose that was one million dollars and ten million dollars. Would there be any increased cost for that coverage? A. Oh, yes.

Q. Would it be substantial? A. A substantial increase.

Q. What I was thinking about was on the personal viewpoint, an automobile policy, that there is slightly little difference in the cost of a liability policy for a hundred thousand dollars coverage than it is for two hundred thousand dollars coverage. I was wondering if the same thing would apply to this particular type of insurance.

A. No. The increased limits table that you would use

on your automobile policy is entirely different from the increased limits table used in this instance.

Q. Now, excluding for the moment the Bond and Share Companies' mutual arrangements, do you know of any other [1665] mutual arrangements in the utility industry whereby non-affiliated companies do obtain blanket coverage comparable to those reflected on the exhibit, Respondent's Exhibit 92? A. I believe so.

Q. Is that common in the industry, that non-affiliated companies would group together for purposes of obtaining blanket insurance coverage? A. No, it is not usual in the industry. It is usual that those group of companies that were under holding companies would wish to continue the coverage because they have a broader scope of risk and naturally they get lower rates by obtaining their insurance in that manner.

Q. I am not sure whether you answered this before, but I would like to inquire as to whether or not Ebasco could take, say, twenty of its clients and obtain the same coverages that are reflected on Exhibit 92 at a more economical price than that presently obtained by the NEES companies. Could Ebasco do a better job in placing these insurance companies from the viewpoint of cost of coverage than the NEES officials themselves are doing? A. No, sir.

Q. Now, at page 1468 of the transcript, and I think in the course of your previous testimony you referred to a manual rate and negotiated rate? A. That is right.

[1666] Q. Is that correct? A. That is right.

Q. Would you please identify the particular insurance coverages on Exhibit 92 that are based on manual rates and those on negotiated rates? A. Under an all risk insurance, you have what they call guide rates, but the coverage may be negotiated. In other words, the insurance company issues a guide rate which the underwriter, if he considers

the risk good enough, he can disregard and negotiate a rate for the coverage.

Q. Well, now, is that risk—I mean the rate of risk, rather, is that applicable to the entire NEES system or is it applicable to segments of it? For example, the electric or the gas? A. Well, if the underwriter sees a substantial premium and sees a substantial exposure and he has a good distribution of risk, he would naturally negotiate a lower rate, whereas if he has a more confined risk and where the risk is subject to a greater loss in a more confined area, he would want a higher rate.

Q. Let me ask this specific question: Let's assume that the record of the gas companies was excellent insofar as accidents and so forth; the record of the electric companies was not excellent. Would that make any difference in the overall rate to the gas and electric companies? [1667] A. It could have an effect, yes, sir.

Q. Do you know whether or not that has occurred in the NEES system? A. That has not occurred.

Q. Pardon me. Go ahead with your answer. A. You wanted me to go down the entire list, sir?

Q. Yes. A. On the automobile physical damage insurance, they are stated rates or manual rates and the only credit you would get there would be experience credits and a fleet credit.

Under the bonds, as I stated before, the St. Paul Mercury, they issue their contracts at substantially below the normal manual rates. However, the type of risk that is associated with comprehensive crime is rated according to manual and all of the companies who are in that bureau would use those rates. The St. Paul Mercury is not in the bureau and therefore they reduce those rates.

Q. In other words, as I understand it, they have a manual rate, but that could become a negotiated rate? A. Not

specifically a negotiated rate, sir. They allow a credit. The St. Paul Mercury allows the credit.

Workmens Compensation Insurance is a rated risk according to the manual.

Your personal injury and property damage coverage [1668] is a rated risk according to the manual.

Your automobile bodily injury and property damage is a rated risk according to the manual.

Your excess of primary umbrella is a negotiated rate and legal liability gas explosion is a negotiated rate. Your boiler, air tank, et cetera, they are manual rates. The American Motorist allows discounts in rates and dividends.

Direct damages, gas explosions, is a negotiated rate. Extra expense insurance is a manual rate.

Fire insurance is subject to rating of the individual properties, according to a rating schedule where there would be debits and credits according to exposures.

Rents insurance is a manual rate. Sprinkler leakage insurance is a manual rate. The group life, accidental death and dismemberment, the Metropolitan rates that.

Q. Do I understand, Mr. Pearson, that in each instance where you have a manual rate that there still may be some discount? A. Oh, yes.

Q. There is some discount involved? A. Oh, yes, experience credits.

Q. And that is in each case of a manual rate? A. Not in each case. That is according to the size of the risk. The greater the risk, the larger experience credit you can obtain. Also, in some cases an equity credit [1669] may be allowed. This is at the underwriter's discretion, as to whether he can equity rate the risk, as to whether the insurance broker will give up part of his commission so he can get a little higher equity rate. Then there is also retrospective rating which is also superimposed upon the experience rated risk.

Q. What do you mean by equity rates? A. Equity rates is a judgment credit that an underwriter can give when he sees a risk. As I explained before, when he sees a risk that he knows has had good experience, he has a good dispersal of hazards and risks, and he wants to make sure that his company carries that risk, he will arbitrarily allow five or ten per cent deviation as an equity rate.

Q. These credit and discounts you refer to could be applicable to the electric or gas? A. Yes, sir.

Q. Are they applicable, Mr. Pearson, on a combined company basis or individual company basis? A. On the individual company basis, some of them would be too small and being a gas risk, I doubt that very many casualty underwriters would allow equity credits of any type at all.

Q. Why is that? Is that because the gas business is more hazardous? [1670] A. No, not specifically. There are just as many claims in the electric business as in the gas business. It is just the possibility of a larger claim. That is about all.

Q. Do you mean by that, Mr. Pearson, that there is a possibility of a larger claim for the gas than for the electric? A. Yes, sir.

Mr. Quarles: Could I ask him a clarifying question?

Mr. Nowlin: Surely.

Mr. Quarles: Might I ask the witness, in the interest of clarification, what is the relationship between the equity rating that you have been discussing and the competitive bid for insurance?

The Witness: Well, actually the allowance of the equity rating would be the competition that you have, as you have put it. That would be the competitive bid, and if the risk, as I say, were large enough and the past experience as the underwriter has seen it, was good, he would try to allow a higher equity rate than another insurance company under-

writer would do. And in a position of that sort, you try to pick the underwriter that has the most authority.

Mr. Nowlin: Mr. Examiner, at this point I would like to state that the respondents have supplied the staff with a letter dated January 4, 1961, and an attachment which [1671] I would like to request Respondent to offer into evidence as their Exhibit 92-A.

Mr. Quarles: Mr. Examiner, this letter was furnished at the request of the staff, as Mr. Nowlin has stated. It was written to Mr. Gishman by Mr. Hanson, dated January 4. It explains the difference between the two figures relating to insurance in Exhibit 92 and gives additional information as to blanket coverage and allocation of cost with respect to insurance cost shown in Exhibit 89 and we are glad, at counsel's suggestion, to offer that as an exhibit.

Mr. Nowlin: No objection.

Hearing Examiner: What would it be identified, as Respondent's Exhibit?

Mr. Nowlin: 92-A was what I was suggesting.

Mr. Quarles: Yes.

Hearing Examiner: Let the exhibit come in as Respondent's Exhibit 92-A.

(Respondent's Exhibit 92-A was marked for identification and received in evidence.)

By Mr. Nowlin:

Q. Mr. Pearson, coming back for the moment to Exhibit 92-A, I note that there are several insurance coverages on there that show no change as between the actual or the pro forma basis combined. Would you identify those particular [1672] items and explain why there are no changes?  
A. Under the automobile physical damage insurance—Oh, no, I am sorry, there is a change there. Under the water heater warranty bonds, that applies only to the gas companies and there would be no change in that premium or coverage.

Q. Why is that? A. It was originally negotiated for the gas companies only.

Q. And is not applicable to the electric companies? A. That is true, sir. The direct damage gas explosion, there would be no change there. That was also negotiated for the gas companies only.

The extra expense insurance is the gas company again and there would be no change there. The fire insurance extended coverage and vandalism and malicious mischief, they are placed on the amount of value as represented by the gas companies. There would be no change there.

Q. The amount of value of what—the property? A. The amount of value of the property, yes, sir.

Rents insurance, there would be no change there. It is the same rents, \$129,600.00.

Sprinkler leakage, there would be no change there.

Q. Legal liability gas explosion, I think you left that out. [1673] A. That I did leave out, yes, sir. There would be no change there. It applies only to the gas companies.

Q. Directing your attention to the rents insurance, just what does that cover? I mean is that insurance on property rented or what does it cover? A. This covers the rental value of the properties that they occupy.

Q. Does that include the buildings, if they own them? A. Yes, sir, and the loss of rental of those properties.

Q. Now tell me what would happen under your pro forma estimates of the Ebasco report. A lot of these properties are being abandoned, both companies moving out. Shouldn't there be an adjustment in this insurance cost for that eventuality? A. Well, I made no study of that, but if there is going to be any change in the rental value of the properties, there would naturally be a change in the insurance, yes, sir.

Q. In other words, if the gas and electric company were severed from common control and were moved into com-

pletely different quarters, this insurance item would not be applicable, would it? A. Yes, it would because the rents insurance is on the property that they own. This covers the rental value of the properties.

Q. How about the properties they are leasing? [1674]  
A. Well, I made no study of their leased properties, sir.

Q. Now, will you refer to Respondent's Exhibit 92-A just introduced into evidence? I note that reflected on this exhibit, under the third column of statistical data, the item "other companies". Would you explain what is covered by "other companies"? A. I don't know.

Mr. Quarles: Mr. Nowlin, you understand that this exhibit was not prepared and submitted by this witness. He wouldn't be expected to be familiar with all of the details of it.

Mr. Nowlin: I thought perhaps this was information that was available to him in the course of his study and he might have taken this into account in preparing his results.

By Mr. Nowlin:

Q. Do you recall, Mr. Pearson, in the course of your direct testimony whether or not you testified to the effect that the allocation of these various insurance costs per books were on a fair basis? A. Yes, sir.

Q. Well, now, how could you form a conclusion as to the fairness of the allocation without having some information as to the cost allocated to other companies? A. The allocation is made, specifically speaking, of [1675] contents of motor vehicles, number of vehicles. I knew how many vehicles were in a total schedule of contents of motor vehicles and I did find out how many or the number of vehicles there were in the gas companies. All I had to do was divide the total number of vehicles into the premium, get a cost per vehicle and multiply it by the number of vehicles and I had the answer for the gas companies and that applies

practically the same throughout. I mean it will be variable —it will be payroll or the valuation of vehicles, so that in all cases there is a rate applicable to a measurable item in the gas companies' schedule.

Q. Then, as I understand it, you didn't make a detailed study of the allocation of insurance costs as between the gas and electric and other companies? A. Excepting only in this manner: When I found a rate applicable to a specific measurable item and then knowing that measurable item appears in the gas companies, multiplied it by the rate and I had the premium and it agrees exactly with these figures I submitted.

[1676] Q. Well, how could you arrive at a conclusion that on the basis of those computations that a certain dollar amount allocated to electric or the gas was a fair allocation? A. Because the number of vehicles will specifically stay with that, content of motor vehicles; where it is allocated by the number of vehicles, there would be so many vehicles with the gas company, so many vehicles elsewhere, which I didn't pay any attention as to whether it was electric or other companies.

Q. Returning again, Mr. Pearson, to Respondent's Exhibit 92, and particularly to the item casualty insurance, I note under this one item of personal injury and property damage. What type of coverage does this afford? A. That affords protection against third party claims for either personal injury or property damage.

Q. Does that mean of any character, whether by motor vehicles or by accident occurring in the electric or gas operations? A. That covers the operations of the company exclusive of the automobile equipment. The automobile equipment, as you will notice, follows immediately below that coverage you just stated. However, this is all in the same contract, so it is academic.

Q. Could you give us some specific items or occurrences

that might be covered by this type of insurance? A. Yes, I believe I did that in my direct testimony where [1677] I gave some gas explosion claims, but on automobile, if you were driving along and you injure somebody or injure property by bumping into them, those people would have a liability claim against you.

Q. Well, now, I understand that you said that automobile was not covered in this coverage. A. Well, these are divided on a schedule because the personal injury and property damage take a different rating basis than the automobile does, and that is the reason I divided. Actually they are all under the same contract.

Q. Just for the moment, let's adhere to the personal injury and property damage. A. Yes, sir.

Q. I think you referred to the explosion experiences in the gas companies. A. That is right.

Q. What type of similar experiences have you had with the electric company? A. Electric companies, we have had quite a few reported accidents and payable third party claims from people raising pipes into high tension wire, drilling wells, and the extension of the pipe going up, contacting the high tension wires, and they are electrocuted. Long Island Lighting have had a great number of those from people digging wells out there for watering lawns, but it is pretty prevalent throughout the country.

[1678] Q. Is this prevalent in the NEES area? A. I would presume so, yes.

Q. Do you know what the experience record has been there with respect to these types of catastrophes or injuries? A. On this specific type of catastrophe?

Q. This coverage, yes. A. Oh, coverage. For which companies?

Q. Well, what I am talking about under this coverage can you give me some specific situations where these injuries have occurred in the electric company which you did

awhile ago, beyond the two or three items that you mentioned? Then I would like to follow that with, what has been the past experience record of the NEES System of these type of injuries or occasions? A. Well, these type of cases, there could be a very simple one of tripping on a sidewalk in front of one of their buildings. They could bring suit for that type of accident or slipping and falling in the buildings themselves. There are various types of third party claims. There are so many different types that you could just speak about it all day.

Q. Do you know what the past experience record of the electric companies and the gas companies have been in these two particular fields? A. I reviewed the experience and specifically I believe the NEES companies under the liability insurance has an experience credit, I believe it is about 52 percent, sir, which indicates [1679] good experience.

Q. Is that the electric or gas company? A. This is the general overall experience.

Q. Can you give us a breakdown of that as between the gas and electric? A. Specifically, I requested the insurance company for that, and I do have it. Under the public liability and property damage for the gas companies, Central Massachusetts credit is 15 per cent, Lawrence is 25, Lynn is 25, Mystic is 45, North Hampton is 10, North Shore 25, Norwood 10, Wauchusett, 15. On a composite basis combining all of them—

Q. Before you go to that, could you give us the same information on the electric companies? A. No, I cannot, sir.

Q. Could you give us an average on the electric companies? A. No, I cannot.

Q. Is there anybody in the room that could supply you with that information? A. No, sir.

Q. Could you tell us the experience discount for the system as a whole? A. I believe it is that 52 percent. I

am not quite sure of that 52 percent, but it is very close to it, sir.

Q. On the basis of rough computations here, Mr. Pearson, it looks like the experience discounts for gas companies average [1680] somewhere from 25 to 30 percent as compared with 52 percent for the system. Wouldn't that indicate that the experience record of the electric companies is substantially different from those of the gas? A. No, sir, because here you are talking about a volume of premium. You have a larger spread of risk. You have more premium involved, and the higher the premium the greater the experience credit. It is a relationship of losses to premium.

Q. Could you give us a little more detailed clarification of these figures? I don't get just what you are driving at. A. Well, experienced rating is quite a complicated computation made by the insurance company based on the experience of the risk. You take the total payrolls in a normal manner times the rates applicable and arrive at a pure premium. You then take your losses of \$300 and under, and you apply a certain factor to those losses, and then all losses from three hundred and over to fifteen hundred you apply another factor to that. After you are through with that, you look up credibility factors and the loss amounts as compared with the total premiums involved, and this, by the way, is carried over a period of three years, so that it gets so devious, the computation is almost impossible to describe verbally.

Q. From the viewpoint of loss experience alone, Mr. Pearson, how would the experience of the gas companies compare with those of the electric companies in the NEES System? [1681] A. Well, the loss figures that I saw showed the relationship to be about the same. Their losses are very low in both the electric and the gas, and I didn't work out any direct relationship of the operation.

Q. I think you stated you thought the loss experience between the gas and the electric are somewhat equal, is that right? A. That is right.

Q. Have you made any allowance for the fact that the gas companies are much smaller in total operations than the electric companies? A. Allowance where, sir.

Q. In your pro forma figures. A. Oh, yes. These pro forma figures here under liability for the individual companies do carry those credits which I mentioned to you, and on a consolidated basis they carry a credit of forty percent.

Q. Well, when you refer to the loss experience of the gas and electric being equal, what do you mean by that term? A. Their losses were so minor that in relationship to the overall credit I just don't know how to answer your question; but the losses were very minor during that period of 1958.

Q. For the system as a whole? A. That is right, sir.  
[1682] Q. And for each individual segment, whether it is gas or electric? A. That is exactly right.

Q. Well, then, insofar as the total premiums paid, wouldn't that indicate that the electric company should pay a substantially greater portion of the total cost than the gas? A. They already have. I am pretty sure of that because the premium is distributed by payroll.

Q. Now, referring again, when you referred to the amount of losses in the gas and the electric being about equal, do you mean that the total dollar losses in the gas are about equal to the total dollar losses in the electric? A. No, sir.

Q. What do you mean? A. I meant in relationship to the payrolls or the premium that was charged to the companies. In other words, there is a volume of premium here of the whole NEES operation, and the losses that have gone into the experience credit are almost in relationship to the volume at risk.

Q. Mr. Pearson, are the manual rates the same for the gas as for the electric? We are talking now still about personal injury and damage insurance? A. The manual rates, the basic manual rates, approximately the same. There is, however, an XCU classification alongside of the gas classification, the XCU meaning explosion, collapse, [1683] underground. You can insure the explosion feature by adding a certain factor to the rate, which would be under the property damage portion of the rate. The underground would be another loading on the rate, and the collapse would be another loading. Usually collapse and underground are combined for a loading in the rate, but there is where they make the differentiation into the higher costs in that loading of the rate for those features of coverage.

Q. Do these costs reflect such higher rates for gas? A. These include the explosion, collapse and underground, yes, sir.

Q. Now, am I correct in my recollection of your testimony on direct that the exposure risks of the gas are considerably greater than they are for the electric operations? A. Not in the basic rates, sir, not in a normal third party liability and proper damage claims. The underwriters really make up the rate to include the explosion feature. If you will refer to this you will see they have excluded the explosion feature in the personal injury and property damage above, and they have issued a separate rate, legal liability gas explosion property damage. The reason for this is the primary carrier would have charged too much premium for it, so they have taken that explosion loading out of the rate and negotiated a lower premium on a specific basis.

Q. Let's suppose that you had a gas company and an electric [1684] company of equivalent size in the scope of operations, and they both took the personal injury and property damage insurance coverage, which company's

rate would be the higher? A. If you are speaking of the primary insurance, and the gas company intends to include explosion, collapse and underground—

Q. No, just what you have on your Exhibit 92 here, the same coverage, personal injury and property damage. A. The same coverage as that. They would be approximately the same then, sir, approximately the same. There is a slight rate differentiation, and I don't know what it is, but it is a matter of pennies.

Q. Would that rate differentiation be in favor of the gas or electric? A. I believe it is a slight favor to the electric.

Q. Would the premiums be about the same size? A. Approximately the same, yes, sir, and here I will also say you mean excluding the loading for the explosion?

Q. That is right. A. Right.

Q. Now, while I am on this I would like to ask for what term are the insurance coverages reflected on 92 for? A. These are all for one year.

Q. One year? A. Yes, sir. If they were three year contracts we divided [1685] the premium by three. If they were five year contracts we divided them by five.

Q. So that each year these insurance coverages are taken up for consideration and renewal? A. That is at the expiration of each contract, yes, sir.

Q. Well, now, you mean each one of the coverages on here is for one year? A. No. The premiums that I have indicated are one year premiums. The contract period might be longer.

Q. Which coverages on Exhibit 92 are covered by policies that extend beyond one year? A. The water heater warranty bond is a one year premium. However, the contract goes over a ten year period afterwards. It warrants the water heaters that were sold in that year over a period of ten years, but actually it is a one-year premium.

Q. You mean it is kind of an installment basis? A. That is right.

Q. The insurance company gets an opportunity to review it each year? A. No, sir, that is the one premium for it, and then you are finished with it, but the coverage extends over a period of ten years. So that the premium I have indicated here of \$10,430 under the water heater warranty bond, that actually was the premium paid within that year for all those water heaters that were leased, but the coverage on these heaters go for a [1686] period of ten years or the warranty period, you see, so that actually you could divide that premium by ten and allocate \$1,043 for a period of ten years. However, there was a premium paid in that year. So far as I was concerned that was an annual premium because next year they have to pay an annual premium on whatever heaters they lease that year and ad infinitum.

All of the other contracts are all term contracts. When I speak of term contracts I mean in excess of one year. They may be three years or whatever it should happen to be.

Under the casualty insurance, each year, even though it might be a three year contract, they would have a new experience credit. They would have a new retrospective rating plan on top of it. In other words, it would apply differently each year. So that while it is a term contract, the rating would be adjusted each year.

Q. Then the experience record in years subsequent to 1958, if they are more favorable, might cause a reduction in this particular insurance cost, is that correct? A. I don't believe I followed that, sir.

Q. Assuming that in the year subsequent to 1958, 1959 and 1960, that the experience record of the companies were much more favorable than they were in 1958, these insurance costs may not be as great as they were for 1958,

isn't that correct? A. Well, in 1958 the experience three years prior to that, it so happened it was very good. Since 1958 there have been [1687] increases in rates required by the insurance companies, so that one offsets the other. So I would say you would come out about the same way because you have the offsetting increase in rates, and as you say, if there is better experience they are going to get a better experience credit, that is self-evident, so one offsets the other. So it would be about the same, I would judge.

Q. Have the increases in the rates been applied equally to the gas and electric corporations? A. Yes, sir.

Q. Before we leave water heater warranty bonds, don't the electric companies have this type of coverage? A. No, sir.

Q. Why don't they have it? A. I don't know. They just didn't require it, I guess, and I guess they are self-insuring it. I don't know whether they do lease water heaters, by the way. I don't know whether they do that.

Q. Is there a greater risk factor for an electric water heater than there is for gas? A. In this case there was a specific reason for the water heater warranty bond. At that time they were leasing water heaters made by a new company. The water heater wasn't proven, and if this company who made the water heater failed, the water heater warranty wouldn't be any good, so this policy would pick that up, and that was the reason for it at that time.

[1688] Q. Do you know whether or not this type of coverage was being continued for the gas companies? A. I believe on renewal they were considering dropping it. As to whether they did, I don't know. This was for another reason that they might decide that.

Mr. Nowlin: May we go off the record a moment?

Hearing Examiner: Off the record.

(Discussion off the record)

Hearing Examiner: On the record.

By Mr. Nowlin:

Q. We notice in our study, Mr. Pearson, that Lynn Gas Department does not carry any water heater warranty insurance. Is that because they buy water heaters from a different source than the other gas companies? A. This I don't know. They did not carry it and presumably they did not want the coverage, and therefore we did not continue it—I mean under pro forma figures.

Q. Mr. Pearson, would you explain for us in detail, if you can, when the insurance policies are originally taken up for the personal injury and property damage insurance coverage, just how does the insurance company go about appraising the ultimate premium that will be charged for the coverage, the system coverage? Just what factors are taken into account and weighed according to each factor? A. The factors that are taken into account on the risk [1689] are prior experience. This is something the underwriters wish to see the first thing of all. Then they find out what is their spread of risk. It is all—

Q. May I stop you? In considering the prior experience, do they treat the gas separate from the electric? A. Well, they consider all factors of exposure. They have to in order to underwrite the risk properly. They may go as far as to send engineers out and inspect all of the properties before they write it. When they return, they have an area here of exposure which they now evaluate. They may make recommendations to the client that if they do certain things, improve certain things, they will write the risk. If they do further things, they will allow a credit. And then they get the exposure. It so happens that personal injury and property damage is rated on the basis of payroll times the rate applied to the classification that they have at risk. If the insurance buyer is astute he might request the insurance company to issue a retrospective rating plan. Here you need a lot of basic information, and you have an

are of savings below the normal manual premium, but you also have an area of increased premium above manual premiums in the event losses are bad. In other words, you enjoy the benefits of your this year's experience under the retrospective plan whereas under your regular experience credit you are enjoying the experience you have had for the past three years, but both of them relate to the risk of liability.

[1690] After the underwriter has judged the factors, if the client wishes to have a retrospective rating plan, he might, if the risk were valuable enough to him, offer an equity credit. He might state that under the retrospective plan the penalty would be very minor. He might request a penalty of a small company of 75 percent above manual, but in a large risk he may request only ten percent, but then the savings down below, you might be able to save for a small company, you can save probably 20 percent on a retrospective plan if your experience is good. On a larger risk you can save as much as 82 to 83 percent. It so happens that NEES has on experience almost gotten the whole credit.

Q. Do the insurance companies in determining the exposure factor look at the gas separate from the electric or individual companies separate from the total in fixing a systemwide rate? A. This is a single risk, therefore the experience rating is for the entire risk. The retrospective rating is for the entire risk, but in their underwriting they naturally look at the electric risk, they look at the gas risk, they look at the automobiles. These are all separate areas of exposure, and what is the distribution of that exposure.

Q. In that connection, could I ask you do they take up each individual company's record, say, in the gas areas and see what the gas system's past record has been? Would they take up each individual company in the electric opera-

tions and see what [1691] its record has been? A. Not specifically, no, sir.

Q. They look at the system as a whole. It is one risk as far as the insurance underwriters are concerned.

Q. Is that the primary factor taken into account by the insurance company, or does the insurance company also give a great deal of weight to the total premium that is going to be derived from system insurance? A. Well, all of it has a basis in arriving at the rate, yes, sir.

Q. I was trying to ascertain which is the most important factor, the total dollars involved or total risk involved? A. Well, it is a hard question to answer because you have to think about both of them at the same time when you come up with the final rate.

Mr. Nowlin: Mr. Examiner, is this a good time to recess for lunch?

Hearing Examiner: We will recess at this time until two o'clock this afternoon.

(Whereupon, at 12:25 o'clock, p.m., a recess was taken until 2:00 o'clock, p.m., of the same day.)

[1692]

AFTERNOON SESSION

(2:00 p.m.)

Hearing Examiner: Proceed, gentlemen.

Whereupon,

C. W. PEARSON

resumed the stand and was further examined and testified as follows:

*Cross Examination (Cont'd.)*

By Mr. Nowlin:

XQ. Mr. Pearson, as I understand it, there are several separate blanket policies taken out by the NEES company

with different insurance companies covering the insurances that are reflected on Exhibit 92. Is that correct? A. That is correct.

XQ. As to the mechanics of placing that insurance, does NEES operate through one insurance company, for example, that farms out these different coverages or does NEES have to deal with the individual insurance companies? A. NEES does both. They have brokers who handle the risk who naturally have the entire market. That is, all the companies, and they request the broker to furnish them with a quotation on coverage and how it is computed. In some cases, they become involved in the actual [1693] negotiations with the insurance companies, with the broker.

XQ. But there is no central point as to one insurance company, for example, taking all of these blanket coverages, and then farming them out to the separate companies? A. No, sir.

XQ. Now, turning to Exhibit 92, and again to the personal injury and property damage items that are reflected on that exhibit—and I am not including the gas explosion liability; just the policies that are on this exhibit—from the viewpoint of the insurance company, what single factor is the most important in determining the rate and insurance premiums charged for the personal insurance property damage coverages that are reflected on Exhibit No. 92? A. There is no single factor. You have a volume of premium which is based on payrolls, times a rate.

Insofar as the coverage for the consolidated companies is concerned, this was a direct computation on that basis, and then there was a 40 percent credit allowed. The reason for the credit is of course, the past experience of the gas companies.

XQ. Well, does that mean then that the two major factors are the experience record and the volume of [1694] insurance that is involved?

There must be some single factor that plays an important part. I was trying to isolate that. A. It has to be taken as a composite risk. There is no single factor that makes a risk good or bad. There are numerous factors, past experience, the condition of the properties, safety organization; how the moral risk is, of the company. Is the company cooperative with the insurance company in any recommendations that they may make to improve the risk, inssofar as liability is concerned, so there are a great many factors and not a single one of them is the factor as you suggested.

XQ. Well, now, am I correct in my memory that the rates for the personal injury and property damages on a manual basis, is subject to adjustments? A. That is usually the way they figured it, yes.

XQ. Forgetting about NEES for a moment, what is the most important factor to the insurance company, in fixing the manual rate for this type of coverage, before you get to any adjustment? A. Well, that would be the classification in the manual to which the rate applies. In other words, as I said before, this classification would be gas companies; then the entire payroll is applicable to the rate that applies to that classification.

[1695] XQ. Do I understand this previous testimony, that in referring to classification, the gas companies are in one classification and the electric companies are in a different classification? A. That is right.

XQ. Now, as to the manual rate, what rates apply to the electric and to the gas, assuming no credits? A. I cannot give you the specific rate unless I have the manual, but as I answered that question this morning, the differential in the manual rate is very nominal.

XQ. And I think I recall you said that the gas companies would probably be a little higher than the electric companies? A. About two or three cents, yes, sir. That

is prior to the application of the XCU loading which we discussed.

XQ. Prior to any adjustment? A. Yes, sir.

XQ. Now, starting with the initial manual, what discounts would apply to the gas and what discounts would apply to the electric, from the terms? A. They would fall in the same categories. There are premiums discount rate for volume of premium. There would be experience rating. There would be equity rating, and if they were large enough to carry retrospective plan, there would [1696] be the retrospective plan credits.

XQ. Well now, let me assume one point further.

In the NEES system, for example, let's assume you got the same manual rate. A. Yes, sir.

XQ. For the electric, and the same manual rate for the gas and that you got the same experience record with the electric, and for the gas rate. You have the same management. Now, which rate would be the highest on those given assumptions, either the electric part of the system or the gas part of the system? A. Treating them separately?

XQ. That is right. A. In that the electric is larger, the rate would be lesser. The gas companies being smaller, they would have a higher rate per \$100 payroll because they are a smaller company.

XQ. All things equal then, the volume of insurance, the amount involved, and so forth, is a major item in the determination of the ultimate rate? A. Oh, yes, sir.

XQ. This morning, Mr. Pearson, you gave us the experience records and the discounts applicable to the individual gas companies in the NEES system. Is that correct? [1697] A. Yes, sir.

XQ. I wonder if you could supply for the record at some later time the similar discounts for the electric companies, and so on. A. That will take a pretty terrific computation.

panies, the individual companies were computed on the basis of their individual experience and it took a considerable time to do that. If I did exactly the same thing with the individual electric companies, it would take a considerable time, but it could be done.

XQ. I thought you obtained this information from some one source. A. That is true. The insurance companies. That is right, but it will take them a considerable time to get that information together.

Mr. Vorenberg: Excuse me. Just so we can understand, you are asking for the discounts with respect to the electric company, as if each electric company were on its own?

Mr. Nowlin: What I am asking for—he gave us the information on the individual gas company. I am asking if he does not have the same information for the individual electric companies.

Mr. Vorenberg: As if each were standing alone?

Mr. Nowlin: On the same basis he gave the figures [1698] here.

Mr. Vorenberg: He gave a number of figures. I want to be clear as to what it is you are referring to.

Mr. Nowlin: These are experience discounts that he gave us this morning.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

Mr. Vorenberg: I think there is considerable question as to whether that particular material could be derived at all. We gather it is not something that would be easily developed. I understood you to say previously that if it was a matter of great difficulty, you would not expect that computation to be sought.

Mr. Nowlin: I just assumed he got—from whatever source he got that information, the comparable source, he could obtain the information for the electric companies.

By Mr. Nowlin:

XQ. Are the discount percentages which you have supplied this morning for the individual gas companies, the figures that you used on the pro forma projection of the insurance cost, as reflected on Exhibit 92? A. For the individual companies, yes.

XQ. Then I withdraw my request for similar information for the electric companies.

[1699] Hearing Examiner: Very well.

XQ. (By Mr. Nowlin) As I understand it, Mr. Pearson, you had nothing to do with the allocation of the insurance costs among the NEES companies, is that correct? A. As per the NEES accounting for the premiums to the individual companies?

XQ. That is right. A. No, sir.

XQ. In other words, then, projecting your pro forma estimates, you simply took the allocation figures as they were supplied you by the companies? A. That is true.

XQ. Did you make any study of the allocation costs among the NEES companies? A. Yes, sir.

XQ. Did you reduce that study to writing? A. No, sir.

XQ. What was the nature of the study? A. As I stated before, starting with the top one, as I explained, on the contents of motor vehicles, we had the total number of vehicles that were insured at the time of the contract in 1958. I found out the number of vehicles for the gas companies, and got a rate per vehicle and took the number of vehicles for the gas companies, and [1700] multiplied by that rate, and came up with the premium as shown.

XQ. Well now, you would not have that same basis for the computation on the other insurance coverages? A. No, sir. Each one is different.

XQ. And did you take up and study the actual allocations of the insurance costs on these books, to determine whether or not they were properly allocated as among the different

companies? A. No; excepting by doing it in this manner that I just described.

XQ. Would you say that would be in the nature of a rough check rather than a detailed study? A. Exactly.

XQ. At the risk of repetition, I would like to inquire—other things being equal, how did the exposure risk of a gas company compare with that of an electric company?

Mr. Vorenberg: I don't understand the question.

The Witness: I don't know.

XQ. Insofar as injuries and property damage insurance is concerned? A. They would be about equivalent.

XQ. In the event of a gas explosion, in the gas operations, under which category would the company make a claim for damages under the gas explosion item or [1701] personal injury property damage item? A. Well, NEES would not make a claim at all. It would be the third parties making a claim against NEES. NEES would then report it under the legal liability gas explosion.

XQ. Exhibit 92 indicates a legal liability, as confined to property damage. A. That is true, sir.

XQ. Now, what would happen in the event of a personal injury? A. That would be insured under the personal injury portion of the coverage, which immediately follows Workmen's Compensation.

XQ. Even if it occurred to the gas employee? A. That is true, sir.

XQ. Are not the risk exposures in the gas business greater than they are in the electric business, as far as personal injury is concerned? A. No, sir.

Usually, normally, you will find more personal injury claims in the electric industry than you do in the gas industry.

XQ. Do you mean the number of claims or in the total dollars involved? A. About the same way. The total dollars [1702] involved in the electric and the gas; if it is

the type of claim that involves death, the payments would be the same, and in the electric industry, it is my opinion that there are probably more than there are in the gas.

XQ. More injuries? A. More injuries of that type, yes.

XQ. More dollar damage is done, also? A. Well, it just is about even, if it is a death claim. If the attorney makes claim against the company, it is all according to how he presents his case. Many of these cases run several hundreds of thousands of dollars and other cases only run \$10,000.

XQ. Is this testimony related to the NEES system alone? A. No. This is in general. The general gas and electric industry.

XQ. If you had two comparable companies, the gas and electric company, your testimony is that the claims in the electric would run higher in both dollars and number than in the gas? A. Yes, sir.

XQ. Isn't it a fact, Mr. Pearson, that one gas explosion may result in many more times the dollars claims of the person injured than one incident in electric operations? [1703] A. That is true but the insurance companies have arrangements in their re-insurance treaties to take care of these larger claims, and the insured is not penalized in their rates; so that the insurance company gets back in premium all of the loss in the first year. I mean, it is over a period of years. They will get it back. There is only one thing that does occur and that is the shortage of market, because underwriters are reluctant after these occurrences, to effect that form of coverage.

XQ. Well, would not the shortage of market itself, Mr. Pearson, indicate a greater risk value? A. No. I believe it would be more conservative underwriting.

XQ. Well then it seems to follow from that, if you have more conservative underwriting, you have a fear of the risk you are taking? A. That is true.

XQ. So that the risk factor of the gas explosive must

run considerably higher than those normally applicable to the electric companies? A. On the property damage, yes.

XQ. Well now, how about personal injury? A. Personal injury, no. Property damage, yes.

XQ. Mr. Pearson, I don't know whether you have a copy of the transcript before you or not. If you [1704] do, I suggest that you look at page 1191, and in the middle of the page there, under "Answer",

"As I stated earlier in my testimony, the past loss experience in the gas industry has made the market for this liability coverage very limited and those markets available to the small gas company would undoubtedly restrict the limits of liability available to the small gas companies."

Does that mean that the past loss experience has been so great as to limit market for liability? A. We have here again the conservatism of the underwriter, after a gas occurrence, and the market for gas risk specifically is more limited than it is for the electric industry. Well—

XQ. Well, what gives rise to this conservatism? A. These exceptionally large accidents that have occurred over a period of years. I mentioned several in my testimony. The Brighton explosion; Cleveland; I think it is Reno; and they were just stupendous property damage claims and immediately after one of those claims, the underwriters become very conservative, and after a period of good experience in the gas industry, they sort of forget about it, and everything goes normal, and the market is there, until another one; then the [1705] market is limited again.

XQ. Well now, does this clearly indicate then, that the cost of the gas insurance company is not only—I mean, that this type of insurance of the gas company is not only restricted but the cost increase—the cost of the risk factor

involved? A. That is the reason they have separated this, sir. They have separated this, and put the hazardus portion of the risk under the legal liability gas explosion which is a separate placement entirely. They have eliminated that coverage from the insurance you are talking about, the personal injury and property damage that follows the Workmen's Compensation, in order that that policy will not be jeopardized by poor experience of legal liability gas explosion.

XQ. Well now—do I understand from your testimony that the coverage under property damage, appearing as Item 3, under the casualty insurance— A. Yes, sir.

XQ. —does not cover the property damage from gas explosion that is reflected under the Item 7 of that category? A. That is correct.

XQ. Well then, may I inquire if the property damage is covered under the legal liability gas [1706] explosion, why do the gas companies carry any property damage under the other category? A. Well, there are other property damage occurrences, outside of gas explosion.

XQ. Well, are they not negligible in relation to the damages incurred by gas explosion? A. In amount, do you mean?

XQ. In amount and dollar volume. A. Yes. I would presume that would be a right statement.

XQ. Well, Mr. Pearson, in view of the limited protection afforded under the property damage, reflected under Item 3 of the casualty insurance, is there any reason why the gas companies could not be self-insurers for this type of damage? A. Well, as a prudent operator, I would not recommend it, sir.

XQ. Do you have any idea of the total amount of claims that have been filed under this particular item against the gas companies? A. I have no idea but I would presume they would be limited.

XQ. Then may I inquire as to why they are included in this tremendous insurance cost of \$114,600 reflected in Column 2? [1707] A. Well, that is the actual manual rate, less the credits of 40 percent, and that is the resultant premium for that overall coverage, and no prudent operator to my mind, would operate without personal injury and property damage insurance.

XQ. Do you mean no prudent operator of NEES gas companies, having the property damage coverage under legal liability would operate without the additional property damage coverage. A. That legal liability is limited to gas explosion only. There are other property damage claims that can occur.

XQ. Do you know whether or not they do occur? A. They have occurred, yes, sir.

XQ. Do you know the extent of such? A. Yes. Tripping over a manhole cover could be a very serious claim. In fact, we have that with one of our companies now, where a woman broke her hip and she is now suing this company for some \$250,000 and that is personal injury. I am sorry. You are talking about property damage, but in the event she—I will continue it this way. If she had an expensive fur coat on, and that coat was ripped and torn and had to be replaced, that would be the property damage portion.

[1708] XQ. You would have to have a pretty unusual set of circumstances though, to really run into any material damages under Item 3, property damages, that would not be covered under the legal liability, would you not? A. No. You may think they are unusual. I could probably get you case after case of property damage: objects falling off buildings, on automobiles, just smashing the automobiles. Collapse of walls, we see that in the newspaper every day in the week, where they fall on automobiles which they may be legally liable for. That is property damage,

and these are those types of claims that they should not be without the insurance. That is for sure.

XQ. Well now, should they have insurance coverage to the extent that is reflected on this exhibit? \$1 million; \$2 million? A. Yes, sir.

XQ. What conceivable claim could arise in the gas operations, apart from property damage and explosion, that would involve claims of that amount? A. Well, let me say, give you, as we call it in the insurance industry, a for instance.

Something falls off a building, interrupts electric power to a warehouse, where they have all goods under refrigeration, so that the compressors cannot drive the refrigerating system and the amount of goods [1709] in that warehouse is destroyed.

We have a claim in our office of one of the client companies, where the electrical failure caused this disturbance, and the claim ran somewhere around \$95,000, property damage.

Now, I am relating that claim back, that if it was the gas company that had disturbed that electric line, by a falling wall, that property damage could occur.

XQ. Well now, do you know of any instances in the NEES system where the gas company's own properties might be the basis for such an accident? A. I know of none, no.

XQ. Well, is it fair to infer, Mr. Pearson, insofar as this particular item is concerned, you have the blanket policy covering the system and you feel that the other system, the gas companies, might take advantage of it, even though they may not need it? Isn't that about what it adds up to? A. No, sir. I don't know of any gas company that does not need it.

XQ. To the extent of the liability covered by this insurance? A. Yes, sir. I would not recommend otherwise.

XQ. Directing your attention, Mr. Pearson, to Exhibit 92, and again, to the item of personal injury [1710] and property damage, we note that the allocated cost to the gas companies for this coverage for 1958 is \$12,000 as compared with your pro forma, estimated cost of \$114,600, on a pro forma, combined basis for the gas company. This increase, according to our computation, amounts to an 855 percent increase. How can you explain this enormous increase in insurance cost? A. The NEES program, when it was originally issued,—it is a program of long standing; I know that it has been renewed on three-year periods for at least three renewals. Therefore, their experience rating under the risk, and they have been very fortunate in their claims, therefore, they have a very high experience credit.

XQ. By "they", whom do you mean? A. NEES. NEES. The NEES system.

XQ. NEES gas or electric? A. Both. Together. It is the NEES system. They then have a retrospective rating superimposed on some 48 percent of the manual premium which allows them a minimum of about 18 percent of that 50 percent to make an easy computation, which means they are paying 9 percent of manual.

During the year, well, 1958, there was an adjustment of the retrospective plan and all these credits were allowed. [1711] One of the things under this program which is different from others that I have looked at, is they have superimposed on top of that, another retrospective plan, if you will, which on the basis of good experience, which the companies have been very fortunate in having, they have come down to a premium, frankly, I have not seen anything like it before; and it does look out-size, when you are looking at this sheet, but believe me, it is correct.

XQ. Well, isn't the experience of the electric companies and the gas companies almost the same insofar as the past experience is concerned? A. I would say so, yes, sir.

XQ. Well, would not that same experience record carry over to the gas companies, on a combined basis? A. I have done that. I included that credit of 40 percent which is the experience credit, sir.

XQ. Well, if that is the case, then how do you get such a tremendous increase? A. The actual manual premium for this is just slightly over \$190,000. That is, the manual as it would be computed if they placed this as a separate risk, with the insurance companies today.

XQ. Well now, do I understand that you testified before that the insurance company ordinarily looks at the gas records, and looks at the electric records? [1712] A. That is right.

XQ. If these eight companies combined on a separate basis, the insurance company would still look at the records of the gas companies? A. That is right.

XQ. Which would be the same thing as it would be if it stayed with the electric company? A. Relatively, yes.

XQ. Well then, how do you account for this tremendous increase in the cost of insurance of these gas companies, all things remaining equal? A. First of all, there is no retrospective plan applied to that \$114,600.

XQ. Why? A. Well, in our experience, we have not ever applied experience rating to a gas company risk with that small amount of premium.

XQ. Why should you not? A. Well, I think they would be gambling because the experience might warrant a serious increase in premium and in that case, they would lose quite a bit of money.

XQ. But the experience record of the gas companies in the past, indicates that the same thing should continue in the future. [1713] A. Exactly. That is one of the things that I did on the Workmen's compensation insurance. I knew the exact amount of losses and I applied a retrospective rating plan to it and it comes up with a premium that

is less than the manual premium but under the liability, I did not do it because in our work, as advisors, we have never recommended a retrospective plan under liability insurance to a gas company when the premiums are as low as they are.

XQ. Well now, if these gas companies had been in the business for the past five years with the same record—for the last ten years, with the same experience record—would you not have applied this retroactive adjustment to them? A. No. You see, they have to make their decision at the beginning of the period to take the retrospective plan. They cannot look back at their past experience and say, because of that, we are going to get a credit this year, and the year they might effect that retrospective plan, they may be penalized so greatly because of losses, that it is a gamble one way or the other. If they were separated, say, five years ago, as you have indicated, and had a retrospective plan, they would have made money on it. Yes.

XQ. Well now, since that choice has already been made for them 10 years ago, why should they not be able [1714] to continue the benefits derived from that, even though they were separated? A. Well, as I stated before, we would not recommend it. That is the way I would proceed on the situation.

XQ. Well, the question is, is that a fair basis from which to proceed? A. Yes, sir. To my mind, it is. We would not—

XQ. Is one of the big factors in this increase from \$12,000 to \$114,600, the fact that on a per books basis, there is a very large premium involved whereas on the separated-combined basis, the premium would be smaller? A. I don't believe I understand.

(The pending question was read by the reporter)

Mr. Vorenberg: Maybe it would help if you explained what you mean by per books basis.

Mr. Nowlin: The \$12,000 is a per books allocation, actually, and the \$114,600 figure is a pro forma basis, combined basis.

What I was asking about was the great disparity in these two figures. Was that due to the fact that the \$12,000 is part of a greater overall premium cost?

The Witness: Oh, yes. That is true.

[1715] XQ. (By Mr. Nowlin) Is that one of the major factors for this big difference? A. No. As I said, this \$12,000 premium that you are talking about here is under a program that has tremendous discounts because of these special retrospective plans.

XQ. That is equally applicable to both gas and electric? A. That is right; under the NEES program. That could not be carried over to the common control of all of the gas companies on a combined basis. Therefore, it was computed as I stated, on a manual basis, which premium, as I recall, was better than \$190,000 and figuring that the gas companies could probably work out in their negotiations a credit, we estimated that credit to be about 40 percent which reduces it to that \$114,600.

XQ. Well, I know you are giving an answer to the thing but I am still a bit puzzled as to why these gas companies being in the system, and their experience record and so forth, and management, whatever it is, is responsible in part for the present rates, why the insurance company in fixing a rate on a separated combined basis, would not give them the same privileges that accrue to them on the basis of their own operations? A. It is one of the whimsies of the underwriting [1716] profession; they just cannot do it. It never occurs that way.

XQ. Is that an arbitrary decision on your part, or did you check this with the insurance company to see if they can get this? A. This was checked with the insurance company.

XQ. And they state they would not give, in effect, the benefit of the retrospective adjustments? A. That is true. They would not continue the experience rating, nor would they give them the same retrospective rating plan.

XQ. Did they tell you why? A. It would not be applicable to them; the premium volume is not sufficient. Probably, if I described this retrospective plan, to the best of my ability—I am leaving out a lot—and I will take a lot from memory.

If you bear with me, I will try it.

The retrospective rating plan is a plan where, on the volume of premium and under this plan, you would get a percentage base premium.

Now, the volume of premium is listed in the manual and it is \$10,000; \$20,000; \$30,000; and so on, in multiples of actually, \$5,000 until it reaches some \$500,000 and the higher you go the lower the basic premium is.

[1717] Then to the basic premium when you compute your final figure, when you add losses which are adjusted on a percentage basis, with a slight charge for taxes, and so forth, they are added to that basic premium.

Now, the minimum premium for this policy varies as the premium increases. At the \$10,000 premium you might have a minimum premium of 85 percent and a maximum premium of 170 percent. As you go higher, that premium reduces, so at about this \$114,000 point you would have a minimum premium of approximately 70 percent of the standard premium and a maximum of somewhere around 165 percent.

Now, it is that saving of that 30 percent between the 70 and the actual manual premium that you are shooting at. This is where you can make your savings.

However, if your losses exceed that 30 percent, then you will go into the penalty of the contract and the penalty goes so high that we never recommend it for a small risk be-

cause the jeopardy of trying to save 30 percent as against a 65 percent charge, is not worth it.

It is not worth the gamble; therefore, we don't recommend it. Whereas with the larger premiums, we have a low basic of somewhere around 15 percent, to which you add losses and your minimum premium is somewhere [1718] around 25 percent, then it is worth while.

You can save 75 percent and then with the penalty of only 10 percent on top of you then it is a good gamble. You save 75 percent, as against a loss of 10 percent.

Hearing Examiner: Let us suspend for a few minutes.  
[1719] By Mr. Nowlin:

XQ. Mr. Pearson, to boil it down to a nutshell to support the conclusion that the principal factor involved in this system at the present time governing these particular insurance costs stems from the total amount of premiums that is involved in the coverage? A. The basis of the underwriting is, yes, sir.

XQ. In other words, that the total premiums that the insurance company is collecting for this coverage is a very important factor? A. Tremendous.

XQ. Well, now, following that line, wouldn't the premiums for the eight companies on the combined operation be considerably smaller—I mean smaller than they would. Strike the question and start over again.

Wouldn't the premium on the combined company basis, eight company basis, on your theory be larger than the individual company premiums on an independent company basis? A. You mean comparing the consolidated companies against any one of the individual companies?

XQ. That is right. A. Well, naturally it would be, yes, sir.

XQ. If the size of the premium is so important, why does the cost of \$129,770 on an independent company base only rise 13 percent as compared with an 885 percent in-

crease over the [1720] present arrangements for the combined company arrangement? If you recall earlier I gave you percentage experience credits for the individual companies. Well, I applied those credits to the premium even though the companies under a new management might not be entitled to it. Now, they don't quite total up to an overall credit of 40 percent, which was applied to the consolidated gas companies. In other words, I think those credits ran from ten percent to forty-five percent, as I recall, and there are a lot of ten percents in there and just the one forty-five. When you average them out, I think the average comes out somewhere around 32 percent, but on a consolidated statement we use 40 percent. That is the reason you see only a small difference in those two premiums, but basically the basic premium is identical. The basic premium is identical for both computations.

XQ. Well, as I understand your testimony, Mr. Pearson, once the gas companies are combined and severed from the system they can no longer operate under these adjustments which you say they now have? A. That is right.

XQ. And they will have to start anew and by virtue of starting anew their personal injury and property damage will amount to \$114,600. Wouldn't the same thing apply to the electric companies? Wouldn't they have to start all over and make out new policies? A. No.

[1721] XQ. Why not? A. Because they would still be the NEES System, and the experience credits and the form of policy would be the same, and they have tremendous premiums involved here in the electric end of it, so that it would still support a program. There might be an infinitesimal change in the percentages speaking on this retrospective. There might be a slight change in the basic premium allocation. In other words, instead of having a base of say fifteen or twelve percent they might have thirteen or sixteen percent, you see, and that is the only place where it would

apply. So you are not increasing their premium very much. It is a very, very nominal amount, but they have always hit the minimum premium so it becomes academic.

XQ. That brings us back again to the same question as to why the electric companies should maintain the benefits of these adjustments and the gas company should not obtain these benefits. A. They are no longer the NEES System.

XQ. Let's suppose the NEES name was changed and they were transferred to a different company, does that make any difference? A. If the electric companies went out, you mean?

XQ. Suppose you transferred the electric companies to a new company and the gas companies to a new company, would that make the difference? [1722] A. They might both lose their special credits, yes, sir.

XQ. Merely by changing the name? A. No, merely by change of ownership.

Mr. Vorenberg: Are you talking about the eight electric companies going apart individually or as a group?

Mr. Nowlin: As a group, the comparable situation.

Let's suppose, Mr. Pearson, that NEES should elect to retain the gas companies and should dispose of the electric companies, would the gas companies get the benefit of these adjustments?

The Witness: I am afraid at that size premium they would be confronted with the same increase, sir.

By Mr. Nowlin:

XQ. Again, it would boil down, this premium is keyed to this whole problem then, the total premium? A. I understand that. It is the size of the premium and what retrospective plan fits into this category that I mentioned before of the volume of premium involved, you see. Now, at the point where this premium is, it is too great a gamble to take to put that retrospective plan in force, and that

would apply to NEES if NEES retained the gas companies and got rid of the electric companies. The electric companies would go out and because of the volume of premium they have, they willy-nilly would go into this retrospective plan because their premium would be so high, you see.

[1723] XQ. Mr. Pearson, another supposition, suppose that the eight gas companies combined to become under common control upon separation, I think you said the adjustments which they now have would not be available to them. Now, suppose that thereupon they acquired another large gas company, say, for example, Boston Lighting Company, would those adjustments then be available to the larger gas system? A. If the premium volume was high enough.

XQ. This whole thing is dependent upon the premium volume? A. On the standard premium, yes, sir.

XQ. Return to Exhibit 92 again, on the second column of figures, I notice that the total system coverage for the year 1958 premiums, rather, amounted to \$139,247. Do you know how that total cost compares with the year 1959 or the year 1957? A. No, sir, I do not.

Mr. Nowlin: Mr. Examiner, I have in my hand a compilation which has been prepared by the members of the staff. This compilation reflects the NEES eight gas companies actual cost of insurance per books. This data was taken from the Department of Public Utilities of Massachusetts, Account No. G-671, and it is for the years 1954 to 1959, inclusive. I would like to offer this exhibit into evidence as Division's Exhibit No. 1, subject to check for accuracy.

Hearing Examiner: Is there objection to the receipt of this exhibit?

[1724] (Division's Exhibit No. 1 was marked for identification.)

Mr. Quarles: Is this being offered by a witness who can be questioned concerning it?

Hearing Examiner: Apparently not. It was being offered subject to check as to accuracy.

Mr. Nowlin: This information was taken, Mr. Examiner, from the company's own reports filed with the Department of Public Utilities of the State of Massachusetts. I would assume the company counsel is familiar with the figures. I offer them subject to check.

Mr. Quarles: As to the accuracy of the figures and also as to what is covered by DPU Account 671, or perhaps, Mr. Nowlin could tell us what is covered by that account?

Mr. Nowlin: I would assume you would know since it is your company.

Mr. Quarles: It covers a part of the items that appear on Exhibit 92, and subject to checking the figures and to an explanation of just what it does cover as compared with the other, there is no objection to it as an exhibit.

Mr. Nowlin: Mr. Examiner, I might state that counsel for the Respondents has supplied us with a copy of a letter dated February 21, 1961, addressed to Mr. Francis H. Spencer and signed by Mr. Harry Hanson, which explains the differences in the amounts reflected on the Division's Exhibit No. 1 and those [1725] reflected on the Respondent's Exhibit No. 92, so that I would like to include the offer of this letter along with the offer of Exhibit No. 1 as 1 and 1-A here.

Hearing Examiner: Well, the letter to which you refer from Mr. Hanson, dated February 21st, will become a part of this exhibit which you are offering as Division's Exhibit 1. Subject to the right to check the accuracy of the schedule, the exhibit is admitted as Division's Exhibit No. 1.

(Division's Exhibit No. 1 was received in evidence.)

Mr. Vorenberg: I think just so the record will be clear this letter dated February 21, 1961, was a letter that had

previously been furnished to the staff at their request. Mr. Nowlin might have left the impression that it was something offered at this time. This is something that had previously been offered in response to a staff request.

Hearing Examiner: I see. Well, there is no objection to the letter being attached as a part of the exhibit.

Mr. Vorenberg: None whatsoever as long as it is understood the letter is a letter previously sent down by NEES and the figures are taken from figures prepared by the staff.

Hearing Examiner: I think it is clear on the record, and the record will so show.

Mr. Vorenberg: Mr. Hearing Examiner, the letter as it [1726] went to the staff has with it two attachments which should be part of the exhibit.

Hearing Examiner: Well, are the two attachments available?

Mr. Vorenberg: They are right here, Your Honor.

Mr. Nowlin: Yes, I would like to include those as part of the exhibit.

Hearing Examiner: The two attachments that Mr. Vorenberg mentioned will be attached to this exhibit. That will make four sheets in all. One, the schedule prepared by the staff, the letter, and the two attachments that accompanied the letter. Thus revised, the exhibit is admitted as Division's Exhibit 1.

By Mr. Nowlin:

XQ. Mr. Pearson, directing your attention to Division's Exhibit 1, you will note that the total insurance cost for the seven companies excluding Lynn reported in Account G-671 to the Department of Public Utilities of Massachusetts, indicates that such costs for 1958 are the lowest in the period 1954 through 1959. At the time of your study—at the time of making your insurance study for the EBASCO report, were you cognizant of the fact that the year 1958 total

costs were less than for any of the other years? A. No, sir.

XQ. Assuming, Mr. Pearson, that the figure \$82,361 reflected [1727] for 1958 on the Division's Exhibit is comparable to the total cost of \$139,247 reflected on Respondent's Exhibit 92, that it would follow that the basis which you use for projecting your insurance estimates were the lowest base during the five year period, 1954 through 1959, is that correct? A. It might have been. I don't know.

XQ. Can you tell me whether or not your estimated cost of \$293,751 reflected on Exhibit 92 was in any way influenced by the actual 1958 cost totalling \$139,247? A. No, the \$293,751 is based on what the program would cost on a consolidated basis.

XQ. Well, it would follow then that the difference between the \$293,751 figure and the \$139,247 figure is a maximum since the \$139,000 figure is at the low point?

Mr. Vorenberg: It seems to me the figure is inherently confusing because it involves figures that this witness does not have available to him. It is all based on an assumption.

Hearing Examiner: I will ask the witness if he knows anything about these two figures that were mentioned in the question.

Mr. Nowlin: The question is based on an assumption. If he understands the assumption he can answer the question.

Mr. Vorenberg: Will you state the assumption.

Hearing Examiner: I am not sure that the stenographer transcribed your question correctly. Let her read it again. [1728] (Question read)

Hearing Examiner: Can the witness make the assumption that he is asked to make?

The Witness: The premium for the system coverage is as indicated on my Schedule 92, \$139,247. The increase to

the \$293,751 is based on actual rates that this insurance could be procured if they were a separate system. However, I made one assumption in this computation, and that is as respects workmen's compensation insurance. There we have a premium of \$21,700. In my notes below you will notice that there is a minimum premium of \$9,800 and a maximum premium of \$66,200. If the future experience under the workmen's compensation were poorer—here we go into this retrospective area again—they could be penalized some \$45,000, so if you added \$45,000 to the \$293,000, I believe that would be considered the maximum that they could be confronted with on that basis.

Hearing Examiner: Do you want a recess? Let us have a short recess.

(Whereupon, a short recess was taken.)

By Mr. Nowlin:

XQ. Mr. Pearson, directing your attention to Respondent's Exhibit 92-A, and particularly to Item 4, comprehensive crime, it shows a total cost of \$4,925 for the year 1958. Now, directing your attention to Respondent's Exhibit 92, under comprehensive crime on a pro forma combined basis, it shows the estimated cost to be \$6,700 and on an independently owned [1729] company basis \$20,610. How do you explain this wide variance? A. The \$4,925 enjoyed by the NEES companies has lost all semblance of a rating procedure. Now, originally when a contract was issued many years ago, they then worked out the rates according to the book or the manual. Since that time, their experience having been what it is, very good, they have agreed to a renewal premium with no basis of Class A employees, Class B employees, exposure of collection agencies—none of these things are taken into consideration anymore. So they agree to write the coverage for \$4,925 annually, which, by the way, is one third of a three year premium where they have

taken advantage of the half year differential in cost for the three-year contract. When we come to the separation of the companies, we are now in a different ball park. Now, we have to make an addition of all the A employees, all the B employees, money exposures at every location, collection agents exposure, all of these then are rated according to the manual. It so happens that I have carried the experience, the maximum experience for utility companies right through into this computation, and that is the way the computation comes out, even taking advantage of the three year premium. There is no other way of computing it.

XQ. That is on the manual rate basis? A. That is right, with all the credits applicable. I have taken a thirty percent discount for utility companies. I have [1730] taken a full 37½ percent experience rating, which they are not entitled to, and it still comes out \$6,700 annually.

Mr. Nowlin: Mr. Examiner, I think that is all we have at the present time of Mr. Pearson.

Hearing Examiner: Is there any redirect at this time?

Mr. Quarles: Mr. Examiner, if we may have the privilege of reserving redirect examination of all witnesses until all have been cross examined, I think it will expedite the completion of the hearing and give us a more orderly record.

Hearing Examiner: Very well. Let that course be followed.

Mr. Quarles: That is all, sir.

[1731] Mr. Nowlin: Mr. Johnson.

Whereupon,

THOMAS JOHNSON

was recalled as a witness and having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, sir.

The Witness: Thomas Johnson, sir.

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Johnson, will you briefly summarize the areas in which you made your study for Ebasco? A. Yes, sir. My part of the work was principally engaged in determining the accounting organizations under the pro forma independent and combined organization for treasury and accounting functions, including general accounting, customer accounting and stores accounting.

XQ. Of the total customer accounting costs, what particular items formed the major portion of those costs? A. As far as the customer accounting costs are concerned, one of the major factors to cause that increased amount was the loss of the relationship with the electric affiliated companies of NEES.

XQ. I am talking about what particular items of the \$415,000, the particular items of cost of customer accounting. A. I see, sir. Well, there are a number of items that [1732] had to be considered in there and, as I just said previously, the loss of electric was one of the principal ones because we had lost the joint meter reading, joint customer service, joint accounts receivable, handling and such other customer accounting functions.

XQ. Let me try this again. Your customer accounting costs increase on a pro forma basis in the amount of \$415,600. What particular items comprise a major portion of that amount? A. Well, the increased cost of personnel in the customer accounting. All of them you must consider.

XQ. Meter reading? A. You must consider all of them. Meter reading, cashiering.

XQ. I know there are a bunch of items. Are there one or two items? A. I can't identify one particular one as being more important than any other one. I think they were all relatively important.

XQ. Let me try again. We will start on an actual basis, Mr. Johnson. Take a given company. What are the principal items that make up the customer accounting costs? A. Of any given company?

XQ. Yes. A. Well, the principal items that would make it up would be meter reading, cashiering, customer service, customer [1733] collection activities, billing, customer accounting. By that I mean accounts receivable records, merchandise accounting, jobbing, order entry, anything that really affects the customer as far as getting the bill to him and getting the money back and getting the meter read.

XQ. Now, referring to those various categories, was there any one or two of those particular categories that consumed most of the cost? A. Well, as I mentioned before, I don't think that offhand I would be able to specifically identify any of them but I think that you are asking me to try to indicate the importance of whether meter reading was one of the greatest factors in the increased cost. I would say that meter reading was an important consideration. Customer service activities was a very important consideration; cashiering was an important consideration, billing was an important consideration. They all were relatively equal. I don't think you could pick out any one and say well, this is the most important one.

XQ. Well, I wasn't thinking in the atmosphere of performance. I was thinking in terms of dollar costs. A. Yes, sir. That is what I am thinking of, too, sir.

XQ. Is customer accounting costs more or less synonymous with commercial costs? A. Yes, sir, I would say to a large extent that is correct, yes, sir.

[1734] XQ. Do you know of any particular difference in those two terms? A. Well, commercial, when you say customer accounting cost, you are generally speaking, referring to commercial cost. I would say that we could, for this purpose, consider them relatively the same.

XQ. What instructions did you receive in connection with the initiation of your study of your particular phase of the Ebaseo report? A. I was told to determine the effect of severance upon separating out the gas companies from the NEES system and to operate them on an independent basis. They were my initial instructions.

XQ. Did you participate in any of the negotiations leading up to the retention of Ebaseo to conduct these studies? A. No, sir, I was first informed after Ebaseo had been retained.

[1735] XQ. Now, I assume you got those instructions you referred to from Mr. Quig, is that right? A. I did, sir.

XQ. Did you get any instructions from any of the NEES officials as to how to conduct your study? A. I didn't get any instructions from them, sir. I wouldn't call them instructions. They cooperated with me in every respect.

XQ. Did you show any of the NEES officials the results of your studies during the course thereof? A. During the course of the study I was in constant communication with NEES personnel as well as other Ebasco personnel.

XQ. Did you discuss and request their opinion as to the conclusion that you reached on these individual studies? A. Yes, sir, I would say that I did, sir.

XQ. And is it correct to assume that this did not reflect your own independent analysis of these several costs? A. Oh, I think that it did. It represents my independent analysis and my judgment, but I cooperated with them and they cooperated with me, and it was a rather joint effort in that they assembled information as I requested it. I analyzed it and so forth.

XQ. Did you make any adjustments in your estimates by virtue of conferences with NEES officials? [1736] A. We did make adjustments, yes, sir.

XQ. In other words, the results of your study were brought into conformity to coincide with the views of the

NEES officials, is that correct? A. No, sir, that is not correct.

XQ. Well, then what did occur at these conferences? A. We discussed the personnel requirements, the procedures that were in effect in the field, the policies, the practices and so forth, but absolutely I did not conform to anything that they developed.

XQ. Were there any differences of opinion in the course of your study by you and NEES officials? A. Yes, sir, there were some differences of opinion.

XQ. Well, how were those differences resolved? A. We discussed them with the treasury representatives in the field and with the persons in Boston.

XQ. Well, did they accede to your statements or did you accede to their views? A. In some cases it was one way and in some the other way depending upon the circumstances. Sometimes I was not fully informed and didn't realize what was going on. Other times they felt I contributed some information that they were not apprised of.

XQ. In other words, you didn't make an independent study on your own and come up with the result and say this is it? [1737] A. I can't quite agree with that, sir, because I feel that I establish the basis for collecting and analysis of the data. I feel that I established the framework of these new organizational structures in the accounting areas, and I had a great part in that. I say I can't answer the question the way you phrase it to me.

XQ. Didn't they supply you with the working material that you needed to reach your conclusions? A. Oh, yes, sir, they furnished me with any information that I requested of them.

XQ. Did they supply you with any information that you didn't request? A. Yes, sure. I received a volume of information.

XQ. For what purpose did you confer with the NEES

officials on the results of certain aspects of your report? A. That is a pretty general question. I think that perhaps the initial discussions with the NEES personnel was to obtain a good familiarity of the NEES system and the relationship, and then further discussions would be as we were constructing the new organization in discussing the organizational requirements, the procedures, the policies, and the practices in the various companies and the relationship between the various companies, the relationship to the service company. A multitude of things were up for discussion at all times.

XQ. Isn't it a fact, Mr. Johnson, that one of the [1738] reasons for your conferences with these officials regarding the results of the study was to be sure that you didn't get too far out of line with their ideas? A. No, sir, absolutely not, sir.

XQ. Well, then why would you talk to them at all? If they supplied you with the working papers why didn't you reach your own independent conclusions? A. The pro forma organizations that are shown here in these reports do reflect my opinion. We are in agreement with them, with NEES personnel, but they very definitely reflect my opinion.

XQ. Well, did you on your own make any independent study or evaluation of the customer accounting cost estimated to be incurred on an independent basis or independent company basis or combined company basis? A. Yes, I did. I visited the field locations.

Mr. Nowlin: Read the question back?

(Question read.)

By Mr. Nowlin:

XQ. Did you on your own make an independent study apart from anybody else? A. Yes, I did.

[1739] Hearing Examiner: Now, the witness started to make an explanation. If he wants to make that explanation,

I think he is entitled to make it. Do you care to add anything to that, sir?

The Witness: No, I think that is all right, sir.

Thank you.

By Mr. Nowlin:

XQ. Did the NEES personnel make any studies of their own of the customer accounting cost on a pro forma basis? A. Not to my knowledge. They did not go off and prepare one study and we prepared another, no, sir, they did not, not to my knowledge.

XQ. Then where did the difference of opinion come from in your conferences? A. When we were establishing the personnel requirements they perhaps would feel that the local treasury organization would feel perhaps they needed additional personnel. I maybe would feel they required a lesser amount. In some cases, I felt they were under manning the organizations. We were manning them at a minimum in that we could have used more personnel. Actually it was for the most part, it involved the number of personnel that would be involved in the independent organizations.

XQ. Didn't that, in effect, then, represent a joint study by you and the NEES officials? [1740] A. Yes, sir, there was a joint study.

XQ. And a joint conclusion as a result of those studies? A. Yes, sir. They are very familiar with and they agree with the results which we have attained here.

Hearing Examiner: Well, he asked you two or three questions in one. Was this a joint conclusion? That is the last one he asked you. What was your reply to that?

The Witness: Yes, I say that this is very definitely a joint study and a joint conclusion, yes, sir.

By Mr. Nowlin:

XQ. Was it your understanding, Mr. Johnson, that you were to proceed to make this report as an independent

evaluation of these costs, apart from anybody's advice or solicitation? A. No, sir, that was not my understanding. No, sir.

XQ. Was it your understanding from the beginning then this was to be a joint study by you and NEES officials? A. By Ebasco and the NEES officials, the NEES personnel.

XQ. If I am correct in my understanding of your testimony, there appears to be conflicting statements as to whether or not this was an independent study made by you or a joint study made in concert with the officials of NEES. Could you clarify that for me? A. It would have been impossible for me to assemble all of this data and do this solely by myself. That would be [1741] a physical impossibility with the number of companies involved and the number of physical locations involved. It was definitely, I would say, sir, a joint study, but this is an independent evaluation on my part. In other words, I say that these pro forma organizations in here, that independently in my judgment they are required to operate these companies on an independent basis.

XQ. You reached that judgment after reconciling differences of opinion with these officials? A. No, we didn't reconcile them and they were not NEES officials, sir. You could call them officials. Certainly not in the upper management level. It was mostly with Treasury employees in the field who were closest to the work, who were more familiar with the work.

Hearing Examiner: Did you do this, at some point in your discussion, reject some of their ideas and accept some of their ideas? Is that a summary of the procedure?

The Witness: That is right, sir.

By Mr. Nowlin:

XQ. When you came to a tentative conclusion as to the need for a certain number of personnel in a particular department, did you check that conclusion with any NEES

officials or employees, if you want to call them that, to get their views on it? A. I reviewed it with the Assistant Treasury personnel [1742] in the field.

XQ. Why did you do that? A. Because I wanted to be sure that I had not omitted any important factor that I should have considered. I mean, again this being such a vast system, I had not worked in the NEES system before and there could certainly have been something that I could have overlooked that would have been most important to the study.

XQ. Suppose you came up to a conclusion, a tentative view that 11 employees were needed and the Assistant Treasurer said that 15 employees were needed. Which view prevailed? A. Depending on what the circumstances were and what the reasons were and what my reasons were for the difference of the opinion, sir.

XQ. Do I understand again or is it your understanding of your instructions from Mr. Quig that you were to proceed to make this study on the basis of the joint effort of yourself and NEES officials rather than to make an independent study of your own, apart from any suggestions or advice from NEES officials? A. Mr. Quig told me what my responsibility was in this particular project and he informed me of the NEES personnel and the assistance that they would render me during the course of the study and I did not at any time think that the study would be something, as I do frequently in other companies, [1743] go in completely on my own, assemble all my own information and all my facts and come up with a report or a conclusion and submit it to the management, without any discussion whatsoever.

XQ. Mr. Quig didn't tell you to go out on your own and make an independent appraisal of these costs, apart from any consultations with the NEES officials? A. Oh, Mr. Quig informed me though I should exercise my judgment

and determine in my own mind as to whether or not the pro forma organizations would be adequate to perform the work. He didn't tell me to just go along—certainly nothing like that.

XQ. In other words, he didn't instruct you to try and make an independent appraisal on your own as to the results of the report? A. Maybe it is a question of words here.

XQ. Let me get this, Mr. Johnson: I understand there are two phases of the study you made. One of them is the phase of accumulating the material; is that correct? A. Yes.

XQ. The NEES officials, of course, are the ones who are in the position to supply you with the material. Now once you were given that material, was it your understanding from the instruction from Mr. Quig you were to take that material and come up with your own independent conclusion as to what [1744] was required? A. Not necessarily, no. I would say that when we constructed the pro forma organizations that I was to be definitely satisfied in my mind that they were adequate and that I was to review them with the NEES officials, with the NEES personnel. I did review it, as I say, with the officials, with the NEES personnel, to determine if there were any serious faults within those organizations. I could have overstaffed them or understaffed them. I could have made errors.

XQ. So that your section of this report doesn't really reflect your own independent judgment as to what the requirements of these companies would be? A. Sections of that report, sir, do reflect my judgment and my independent judgment as far as the adequacy of the personnel requirements are concerned. They do that, sir.

XQ. Don't they also reflect a meeting of the minds between yourself and NEES officials on personnel? A. The NEES people are in agreement. I don't think it was a

question of meeting of the minds. They are in agreement that they, too, feel that they are adequate.

XQ. Wasn't the whole purpose, Mr. Johnson, of your meeting with the NEES officials to check the results on these interim conclusions for the purpose of having a meeting of minds with the NEES officials? [1745] A. The words "meeting of the minds", no. We were trying to determine and be sure that the pro forma organizations would perform for these independent organizations. We wanted to be certain that they would perform.

XQ. As an expert, wouldn't you know what the requirements of these companies would be without checking with anybody in the NEES system? A. Not until I was fully familiar with their policies, practices, and procedures, I would not.

XQ. Well, let's assume that you became familiar with the policies and procedures and so forth. Wouldn't you, as an expert, know what kind of an organizational setup the company should have? A. There could be other factors that would come in that they would apprise me of that perhaps I would not be familiar with. For example, it may be a minor point in your mind and I think it is important and that is the vacation area up in the New England area. That certainly places a different workload on employees than if you are in a rather rural area or metropolitan area and things like that. All of those things were important in making up these manpower requirements.

XQ. Well, that comes under the head of obtaining information upon which to base a conclusion, doesn't it? A. That is true, yes, sir.

[1746] XQ. Once you are supplied with the information from which to reach a conclusion, you as an expert ought to be able to reach your own independent conclusion without checking with anybody else, shouldn't you? A. I did reach my independent conclusion.

XQ. You tell me you kept checking with the NEES officials? A. I didn't say I kept checking with them, no, sir. I said they reviewed these organizations. I didn't keep checking with them, no, sir.

XQ. Let's take another branch. Did you, on your own, make any independent evaluation or study of the customer accounting actual cost and methods of operation of the NEES system before you undertook to prepare any kind of study for the Ebasco report? A. Yes, that was the first thing I did. The first thing I did was to obtain the information as to how the NEES system was organized and operated at that time during the year 1958.

XQ. I am going further than that. I am going further to see whether or not you made any independent appraisal to determine whether or not any of their activities in the customer accounting or any other area in your particular study should be supplemented or curtailed before you started on your Ebasco report? [1747] A. Yes, sir, absolutely I did that.

XQ. Was that reduced to writing? A. Pardon me?

XQ. Was that reduced to writing? A. I have notes.

Hearing Examiner: The witness twice has tried to relate that he visited someplace or some body, some area. What place did you visit?

The Witness: When the study first went underway, I visited the field locations and discussed the operations with the Treasury personnel in the field in the various district Treasury organizations that I described in my direct testimony.

Mr. Nowlin: I don't think we have a meeting of the minds of it ordinarily as an expert you would.

Hearing Examiner: Well, now, Mr. Nowlin, you asked this witness what he did and he started to tell you before he went into any conference or meeting with NEES of-

ficials he went out into these areas and got this information. Is that correct, Mr. Johnson?

The Witness: Yes, sir, I went out, sir, and I discussed the operations in the field. The personnel requirements I discussed and I verified information that has been given to me, which I had requested from the NEES personnel. I verified it from an independent point of view.

[1748] Mr. Nowlin: I don't think, Mr. Examiner, either you or the witness understood my question. I asked did he make an independent study to determine whether or not the present NEES system customer operations should be supplemented or curtailed, not just a visit to acquaint himself with the operation, but did he make a study to determine whether or not they were properly operated or whether they should be supplemented or curtailed.

Hearing Examiner: Well, we will pick it up there and ask the question over again. I thought this record ought to reflect that this witness went out into the field and made investigations and he tried two or three times and he never did get to finish it because he was interrupted.

Mr. Nowlin: It does, Mr. Examiner, and the record already—I am not interested in those.

Hearing Examiner: I will let you take over the examination and keep still for a moment anyhow.

By Mr. Nowlin:

XQ. Merely again, what I am trying to do is before you started to make this study for NEES, you supposedly got acquainted with these departments, the operations and so forth. I assume that is so. I am asking one step further: did you make any evaluation or study, actual study, of these various functions of which you were charged to look into to determine whether any of those functions should be supplemented or curtailed. [1749] A. Yes, sir, I did and I rather, if I remember correctly, I think I have that in my direct testimony. I reviewed their policies and their

procedures to see if there was anything above what was actually required to make it function on a normal level. Is that what you mean, sir?

XQ. No, no. Let me take one specific. Did you make any study, for example, of the customer billing, the actual cost of customer billing, as to how these billings were carried on and conducted and so forth to determine whether or not the present service was adequate or whether it needed to be supplemented. A. My opinion is customer accounting activities and I am including now the whole round of them, the billing, the meter reading and the customer service, all of them were carried on in an efficient manner, adequate manner and they rendered good service to customers.

XQ. Was that a conclusion you reached after you made your study or before you started your study? A. That has to be a conclusion that I made after my study.

XQ. Well, then, the answer to the question I asked you didn't make a study then primarily to the beginning of your actual study for Ebasco?

Mr. Vorenberg: Mr. Examiner, I think the word "study" is being thrown around here in a way that is at least [1750] confusing to me and it must be confusing to the witness.

Mr. Nowlin: I asked him if he made a study and reduced it to writing.

Mr. Vorenberg: What study is that?

Hearing Examiner: Wouldn't "report" be a better word than "study"?

Mr. Nowlin: I will substitute "report". He has to make a study in order to make a report.

Hearing Examiner: All right.

The Witness: During the course of the time I was visiting these locations and in my own determination of the requirements of the system as they operated during the year 1958, I certainly made notes. I certainly had the per-

sonnel requirements as they were constituted under the NEES system. I checked their validity by discussing it not only with the Assistant Treasurer and the supervisors, but I even discussed it with clerical personnel. These studies were just what they were doing and they gave me a good working knowledge so that I was then able to work on the pro forma organizations for the independent operation.

By Mr. Nowlin:

XQ. You did not make any active check of the actual operations to determine whether or not they needed to be curtailed or supplemented? A. Oh, I did, sir, and I say that I felt and I think [1751] that I have answered the question before. I am really trying to answer the question. In my mind the NEES system, as I found—

Hearing Examiner: You have answered the question he propounded to you. Ask another question now, Mr. Nowlin.

By Mr. Nowlin:

XQ. You said you did. I ask you if those studies were reduced to writing in report form. In other words, did you go into this—take, for example, Wachusett—did you go in there to the Accounting Division and make an independent review and say we have got 14 meter readers, I think they only need 12, or they have got 14 and I think they need 16. Did you make any study like that? A. When I made the first trip around and went to the various offices and had the information and so forth, I didn't try to project any pro forma organization for any of the gas companies; I waited until I had a full familiarity with the entire system prior to the time the pro forma organizations were established. Again I am certain that this is in my direct testimony. I think I described in some detail how I went about my work and what I am saying now I am repeating as to what I said before in the direct testimony to a large extent.

Mr. Nowlin: I still insist, Mr. Examiner, that I am try-

ing to ascertain one simple point. It is obvious that from the previous record that you made all these steps, [1752] what you did and who you visited and so forth and I am trying to ascertain—

Hearing Examiner: Ask the witness to describe what he did.

Mr. Nowlin: That is all in the record, Mr. Examiner. I am trying to get him to describe if he did anything before he did what he said he did.

Hearing Examiner: Ask him that question then and see what he says.

Mr. Nowlin: I have asked that four or five different ways. I have tried to explain that it seemed logical in order to make an independent evaluation and study and reduce that to writing of the actual operations before you start on your projected operations, and I am just trying to simply ascertain if you did that. Now I have gathered from your testimony that what you did is you went out, as you stated on direct, made all these studies, made visits and studies and accumulated a lot of information. Then you came up with your estimates. I am trying to go ahead of that and say did you reach any independent conclusion as to whether these companies were properly operated or should be supplemented or reduced before you started to make your pro forma study. It seems to me simple. I don't know whether I am confusing you or not.

The Witness: Prior to the time that we made up the pro forma organizations, I was satisfied in my mind that [1753] the NEES system, as far as the customer accounting functions were concerned, were being carried on in an effective and efficient manner and I saw no reason to expand them or to curtail them.

By Mr. Nowlin:

XQ. But did you not make any written report or study for that particular purpose? A. No, sir, I did not make

a written report for that. No, I took notes and there was no reason for me to make a written report.

XQ. That is what I have been trying to establish here for sometime. A. Well, I am sorry.

Mr. Vorenberg: May I ask, if you are moving into a new area, may I ask one clarifying question relating to Mr. Johnson's relationship to the preparation of the study with NEES personnel? Was there any instance in the preparation of the pro forma organizations where you included in the pro forma organization the judgment with which you were not satisfied because of the fact the NEES personnel had urged it upon you?

I will restate that question, if you want. Was there any case where you accepted a judgment with which you were not yourself satisfied?

The Witness: No. They were all resolved prior to [1754] the time that the report was finalized.

Mr. Vorenberg: That isn't the question. What I am asking is whether there is included in the conclusions of the study any judgments as to which you were not personally satisfied.

The Witness: No, there are no judgments in there that I was not personally satisfied with, absolutely not.

By Mr. Nowlin:

XQ. Now, Mr. Johnson, after you had made your study, I assume you prepared some sort of or some form of a report for submission to Mr. Quig and the other associates in Ebasco. A. I would prepare my part of it, yes, sir.

XQ. You mean you would prepare the combined report on these different functions or you would prepare— A. Initially I prepared the effect of severance on an independent basis, drafted my report, which was compiled then with the other areas of the work which were performed by other Ebasco personnel until we came up with the draft of the report initially.

XQ. For example, on the section of general accounting, did you make a study of that and come up with a preliminary report of your views on the general accounting phase of your study? A. Yes, sir.

[1755] XQ. Well, did you make a report on, an interim report on your conclusions as to the customer accounting phase? A. These are all draft reports after I had finished that initial phase of the work and I started to construct the pro forma for all the general areas, stores, customer accounting and the things contained in the report in the draft form.

XQ. I assume at one phase of your study you had a prime report of your conclusions respecting the field in which you were operating for submission to Ebaseo officials, is that right? A. That is right, sir.

XQ. Do you have a copy of that preliminary report that you prepared available? A. No, sir, I do not have one here.

XQ. Do you know how the recommendations which you came up with in your preliminary report compared with the final results that are reflected in the Ebasco report? A. I don't think that there is, if I remember properly, and correctly, I don't think we have changed any of the manpower requirements in any of the areas—general, customer or stores accounts. They stood up all the way through.

XQ. Prior to the submission of your preliminary report to the Ebaseo officials, I believe you testified that you checked the items with these officials. A. I reviewed them with the NEES treasury personnel, [1756] yes, sir.

XQ. Now, after you had submitted your preliminary report to the Ebaseo officials, what conferences were held between you and Ebaseo officials and NEES with respect to reaching the ultimate determinations that were reflected in this report? A. Oh, we had many discussions on it. I discussed the personnel requirements with members within my own department of Ebaseo. I discussed it with Mr. Quig

and other Ebasco personnel and then after we had that draft together, I think we then submitted it to the NEES peoples for review and by that time we were just about ready to go to press and come on up with the initial reports. Of course you always have minor changes in verbiage and things like that, but there were no significant changes from the original draft.

XQ. In the process of reaching your ultimate conclusions were joint conferences had between you and NEES officials and your associates in Ebasco with a view to determining the ultimate figure that you would arrive at? A. No, sir, I would not say that. No, we discussed with them various areas that came up where we either needed additional information. No, actually there was no discussion of the loss of economies due to severance until after the first draft was completely prepared. That was the first time anybody knew about it because you had to assemble all this data [1757] together before you really knew where you were.

XQ. Was there any changes in your report, the first draft of your report and the final draft of the report? A. Well, I tried to answer that before. I don't feel that there were any changes in any of the accounting areas from the drafts that I originally prepared through this initial report. If they were, they had to be very, very insignificant or I would have remembered them.

XQ. Do you know whether or not such changes have been made with decreases or increases? A. I say I don't think there were any. I think the personnel requirements were just about the same as in the original drafts.

Hearing Examiner: Earlier in the day we discussed progress and I think we reached an understanding that we would try 9:30 in the morning and we will recess at this point until 9:30 tomorrow morning.

(Whereupon, at 4:45 o'clock p.m., the hearing re-

cessed until 9:30 o'clock a.m., Thursday, April 7, 1961.)

[1759]

PROCEEDINGS

Hearing Examiner: Let us come to order.

THOMAS JOHNSON

was recalled as a witness, was examined, and testified as follows:

*Cross Examination—Cont'd.*

By Mr. Nowlin:

XQ. Mr. Johnson, in general, what particular phase of a company's operations does customer accounting cover? A. Customer accounting covers the meter reading function, the billing function, the handling of the accounts receivable, the cashiering function, credit function, collections, customer service and merchandise billing and jobbing work.

XQ. Then, in short, that customer accounting function really is to serve the customer, isn't that correct? A. That is right.

XQ. It is a function directly related to servicing a customer rather than servicing the mains—the gas mains and other functions of the Company? A. Yes, sir. That is right.

XQ. Now, in the course of your study and in reaching your final conclusion, what particular item or items did you accord unusual significance? A. Pardon?

Hearing Examiner: Would the reporter please read the question?

[1760] (The pending question was read by the reporter).

Mr. Vorenberg: I don't understand that question.

Mr. Nowlin: Strike the question and let me repeat it.

By Mr. Nowlin:

XQ. In formulating your estimates of the severance cost attributable to the customer accounting, did you pay particular attention to revenues obtained from that particular phase of the Company's operation or to the number of customers served? A. The number of customers served was of more significance and more importance than the revenues derived from those customers.

XQ. You are dealing with customers and that was your principal guide for determining your overall cost? A. That was one of the guides, sir.

XQ. What other guides were there? A. I had to take into consideration the type of territory, the peculiarities or the circumstances within each company involved.

XQ. That still all stems back to servicing the customer? A. Yes, sir.

XQ. So that the customer is your main consideration? A. No, sir, not my main consideration. As I say, I also had to consider the geographical setup of the Company, [1761] the territory served, other considerations.

XQ. Is it fair to say that, in general, a total customer accounting cost of any particular company, is able to be determined by the number of customers served by the Company? A. Yes, sir. If you qualify that with another important part of the cost which would be the number of offices within that particular company, the type of territory—

XQ. I am assuming you have one company, that you have the same territory? A. Yes, sir, but in addition to customers, as I say—if one company would have three or four offices and other company one office, there is a difference in the way you would handle those two different types of companies.

XQ. Do I understand it then, that in the formulation of

your estimates of service cost, you gave little attention to the matter of revenue derived from operations? A. That is right, sir. I was not concerned too much with revenues.

XQ. What do you think is the fairest method of allocating the customer accounting cost?

Mr. Vorenberg: Between whom?

Mr. Nowlin: Between—first of all just generally allocating between joint operations, electric-gas operations?

The Witness: The number of customers served would be a good measure of determining fairness of allocation.

[1762] By Mr. Nowlin:

XQ. What was the method which you used in formulating your study? A. I didn't allocate any cost.

XQ. Well, did you make any study of the allocation of cost—the actual allocation cost between the NEES companies in 1958? A. Yes, sir, I did.

XQ. Was that a detailed study or just an observation? A. It was in sufficient depth for me to reach a sound conclusion.

XQ. And, I believe you have testified before that in your opinion, the method of allocating cost between the NEES System companies in 1958 was fair. Is that correct? A. Yes, sir.

XQ. Do you know, Mr. Johnson, the basis that the NEES companies used for allocating a joint customer accounting cost incurred during 1958, between the gas and electric companies? A. Yes, sir.

XQ. Where there were joint operations? A. I was familiar with the methods which they used.

XQ. Do you know what method they used? A. Yes, sir.

XQ. What was that method? [1763] A. I would say that predominantly, it was based on the number of customers.

XQ. Do you know what other factors were involved in addition to the number of customers? A. Occasionally, allocations would be based on a weighted average of gross

revenues and the number of customers or meters in service.

XQ. As I understand it, you thought that the allocation was fair, but that you thought the fairest basis for allocating such cost was on the basis of customers. Is that right? A. Yes, I think that's a fair basis, and a good basis.

XQ. Well, how can you reconcile your views that they should be allocated on the per customer basis with your statements that the allocations were based on revenue and a customer basis were fair? A. I said that predominantly they were done on a meter or a customer basis. In other allocations, they were done on a revenue weighted gross revenue and meter in service or number of customers basis. In other words, taking the two into consideration with customer accountings, basically and mainly the allocation was based on the number of customers or the number of meters in service.

XQ. Do you think that the companies allocated these costs [1764] in which the NEES in the basis of customers and revenues was fair? Yes, sir, in my opinion it was fair.

XQ. Can you tell me what revenues have to do with the actual cost of servicing a customer? A. I didn't say they used the revenues. I said, basically and mainly, it was based on the number of meters and the number of customers.

XQ. What justification is there for using revenues at all for allocating costs between operations? A. Sometimes, you would use a combination of revenues and meters, particularly, maybe, perhaps, in you are allocating the cost of administrative and executive personnel of treasury and accounting operations.

XQ. I am talking about customer accounting now. A. Again, I go back and I say at basically, and mainly any case where revenues and I can't, at the moment, thin-

were used as a basis for allocating the customer accounting cost. It is possible they were but I can't remember.

XQ. Mr. Johnson, I would like to direct your attention to Exhibit 58(a), pages 605 and 611. Now, if you will look at the table at the top of page 605 and notice the Total Gas Customers, 8,023. See that figure? A. Yes.

XQ. And, if you look—turn over to 611—Total Customer [1765] Accounting Cost for \$15,509. That is Customer Accounting Payroll Cost. Do you see that figure? A. Yes, sir.

XQ. Now, turn back to page 605 and notice that the electric customers of Northampton Electric total 9,512. A. Yes, sir.

XQ. And the total—and turn to page 1111, Exhibit 58(b) for the Payroll-Customers Payroll Accounting Cost of Northampton Electric, and that is reflected on page 1111, and the total is \$34,200. Is that correct? A. Yes, sir.

XQ. I would like to correct that—instead of the \$15,509 figure, as the Customer Accounting Payroll Cost of Northampton Gas, change that figure to \$17,000, which appears on Page 626. According to our computations, the per customer cost for 1958 of Northampton Gas amounted to \$2.12 as compared with \$3.59 for Northampton Electric. Subject to check, I would like for you to check those figures. This difference per customer cost is equivalent to 12 percent greater cost for the electric company than for the gas company. Is this wide disparity in the allocation fair? A. You have picked here an unusual case. As far as the Northampton operation is concerned, the overall allocation of accounting cost between the electric and the gas works itself out. We have some offsets occasionally. This happens [1766] to be one of them. Some of the people in the General Accounting Operation at Northampton did perform customer accounting work.

XQ. You mean they performed these services even though

the payroll costs were not shown on their customer account-ing? A. In this particular instance, that was the case.

XQ. Which personnel would you point to as performing those services? A. They assisted in performing some cus-tomer accounting work—it would be the Senior Clerk and the Clerical Assistant.

XQ. How much of their salaries would be allocable to customer accounting? A. I don't think you can pinpoint it that fine, sir.

XQ. Are those the only two persons in the Northampton organization that performed customer accounting work? A. No. When you come into companies of this size, you must have flexibility within the various accounting groups.

XQ. Do any of the personnel in General Accounting in the Electric System do any customer accounting work in Northampton Electric Company? A. It is possible they could assist at times, depending on the circumstances.

XQ. Do you know whether or not they do? A. I don't remember off hand, sir.

[1767] XQ. Is there anything in the Ebasco report to substantiate the statement you have just given regarding the joint services? A. It is my recollection you will not find a statement in there that General Accounting personnel at Northampton assist in customer accounting work. I don't think you will find that in there, no, sir.

XQ. If personnel of each of the two companies in the General Accounting Department did work in the Customer Accounting, then that would equalize both sides, wouldn't it? A. Well, the important thing here is as to whether or not the Gas Company is bearing its proper share of account-ing costs.

XQ. That is what I am after. A. And I say very de-finitely it does—the Gas Company does.

XQ. I am asking you how you can reach that conclusion in the face of these figures I just gave you. A. Because you just can't take a narrow segment such as that. You must look at it from an overall point of view. We should look at it from a District Treasury point of view, considering all of the operations.

XQ. From an overall point of view, what are your customer accounting figures? A. Northampton Electric bore about 67 percent of the [1768] payroll of customer accounting personnel; Northampton Gas about 48 percent—67 and 33.

XQ. In arriving at those percentages, what cost figures did you use? A. The eight people that are on the payroll of the Electric Company and the five people—and the four people that are shown on page 611, at the January 1, 1959 salary of \$15,509.

XQ. What dollar figure did you use for Electric? A. \$31,300.

XQ. Is it your testimony, then, that these dollar amounts, \$31,300 and \$15,509, are the customer accounting costs for the electric and gas? A. That is the cost of personnel that are assigned to the customer accounting area.

XQ. I think you have indicated that there were two other members of the General Accounting Department that were doing customer accounting work, in the Gas. By reason thereof, would you make any adjustment to the \$15,509 dollar figure for the Gas? A. Would I make any adjustment?

XQ. Yes? A. No, sir.

XQ. Why not? A. Because from an overall point of view of the [1769] Accounting allocations between Northampton Electric and Northampton Gas, you would take into consideration General Accounting, Customer Accounting, Stores Accounting and the Central District Treasury Organization. There is a fair allocation of the total overall

accounting cost to the Northampton Gas Company and to the Northampton Electric Company.

XQ. Could you give us the total figure for the Accounting Department concerning which you said represented a fair allocation? A. Northampton Electric was approximately \$82,000. This is January 1, 1959 level, excluding fringe benefits and payroll taxes. Northampton Gas—

XQ. Where did you get that figure? Is that reflected in the Ebasco report? A. In various sections of it. It could be assembled. I summarized it myself in various areas.

XQ. What are the elements that go into this \$82,000 figure? A. Well, the cost of the Administrative and Staff Treasury personnel.

XQ. Where does that appear? A. Page 610.

XQ. That is 58(a)? A. Yes, sir.

XQ. That is the Gas Company. [1770] A. Do you want the Electric first?

XQ. Yes, sir. A. All right, sir. Page 1108 of 58(b).

XQ. What figure did you take off there? A. Well, if you take \$3,000 for the Assistant Treasurer, \$1200 for the Secretary, \$1700 for the Insurance Clerk, \$1100 for the Secretary. We have a Chief Accountant, \$5,000, Stenographer, Senior, \$3600. They are the ones.

XQ. What do those add up to, Mr. Johnson? A. I have to add it. That is about \$15,600.

XQ. Now, can you give us the rest of the figures that make up the \$82,000? A. The General Accounting would be \$21,900.

XQ. Where did you get that figure from? A. From Page 1110.

XQ. What work did the Payroll Clerk, Senior of the Electric Company do for the Gas Company? A. Assisted in the Payroll Operation for Northampton Electric and Northampton Gas, with the assistance of the Payroll

Clerk, Junior, who was on the payroll of the Northampton Gas Company.

XQ. Before we go any further, could you give us the comparable figure for the—the electric figure is \$82,000, will you give us the comparable figure for the Gas Company? A. \$61,000.

[1771] XQ. Now, can you point to the sources from which you obtained that figure?

Mr. Vorenberg: Do I understand, Mr. Nowlin, that you don't want him to complete the computation of where you get the electric figures? You have asked him to interrupt that. I thought the record should be clear that you asked him to change courses.

By Mr. Nowlin:

XQ. Yes. We may want to come back to it. A. Well, it would be page 610. Now, we are talking about the Gas?

XQ. Right. Stopping for the moment, Mr. Johnson, on these detail figures and referring back to the totals—we have \$82,000 cost for the electric and \$61,000 cost for the Gas. According to your computations, the electric gives out at \$8.06 per customer as compared to \$7.60 per customer for the gas. How do you justify this difference? A. We are comparing apples and oranges. Really, there is just no way of—you take all of these costs and put that on a customer basis. You can't do that and come up with a figure that can be comparable to anything.

XQ. How can you possibly determine that these allocations are fair, if you can't support the basis of it? A. I can support the basis.

XQ. On an overall basis? [1772] A. Yes, absolutely.

XQ. We are taking this on a particular customer basis, A. Northampton Gas and Northampton Electric, as I previously mentioned, according to the functional group that we see here, and, by the way, when we look at this, we

see a janitor under customer accounting in this functional grouping and that janitor certainly has nothing to do with customer accounting. He doesn't read meters and doesn't bill.

XQ. Why was he listed there, then? A. Because he is there for administration and supervision. Throughout the entire report you will see janitorial services frequently included in the customer accounting function.

XQ. Now, Mr. Johnson, how can we possibly check the accuracy of any of these figures if we can't get some uniformity in the presentation of figures? A. These figures are accurate, sir.

XQ. I said uniformity. How can we check them unless we know that the figures under certain categories are realistic? A. I don't understand—checking and making comparisons.

XQ. In order to determine—in other words, if you don't put personnel in uniform categories, how can we possibly check these items out? A. These are functional groupings, sir.

[1773] XQ. I think you have just stated that the janitor doesn't function as a customer accounting personnel? A. That is right, sir. I said that. That is correct.

XQ. Why did you group the janitor with that personnel? A. For administration and supervision. There was no point in a company of this size to establish a Building Service Group with one janitor.

XQ. Mr. Johnson, we are interested in getting the Customer Accounting cost for each Company. Can you give us the actual Customer Accounting cost for each of these companies.

Mr. Vorenberg: Mr. Nowlin, perhaps it would be helpful if you would define for us what you mean by Customer Accounting cost.

Mr. Nowlin: The same thing he means. He has made

the representations here, and what we are trying to do is check his figures.

Mr. Vorenberg: I don't know what representations you are referring to.

Mr. Nowlin: He has stated the customer accounting, and what his operations would cover. We are just trying to find out what they are.

Mr. Vorenberg: What you have in mind, I am sure—what you are asking about, now, is the actual setup of these companies which they are now operating?

Mr. Nowlin: No, Mr. Vorenberg. The Ebasco report [1774] sets up each one of these customers—customer accounting, and what we want to do is ascertain the validities of those figures, and second, whether or not there is a proper allocation of these customer accounting costs between the electric and gas companies. That may make a substantial difference in the overall result. There is an estimate here of \$415,700, I think, increase in customer accounting costs and that is the largest single item in the report, and, naturally, we are interested in the validity of that estimate, and we are unable so far, to make any check up.

By Mr. Nowlin:

XQ. Now, we would like to be supplied with the actual customer accounting cost, as reflected in these reports. In other words, it seems to me that the reports have no validity or probative value. Can you give us those figures, Mr. Johnson, for each of these companies? A. When would you like that for, sir—what year?

XQ. The year that you projected it for.

Hearing Examiner: What was that year? Can you state that for the record?

The Witness: 1958, sir. Exhibit 90 shows the Commercial Cost per customer for each of the respective Gas Companies for the year 1958.

By Mr. Nowlin:

XQ. Now, Mr. Johnson, looking at Exhibit 90, and the Northampton Gas, and noticing listed there, the per [1775] customer cost at \$3.58. Do you find that under Commercial? A. Yes, sir.

XQ. Now, can you give us the comparable figure for the North Hampton Electric? A. I do not have that available, sir.

XQ. How can you testify, then, Mr. Johnson, that the allocation between the Gas and Electric—of Northampton Gas and Northampton Electric, is fair? A. Because I took the overall Treasury Accounting Payroll for the Electric and for the Gas, and compared it to the number of meters and the percentages turned out that it was a reasonable allocation.

XQ. What set of comparative figures did you get before you came to that conclusion? [1776] A. The figures that I mentioned before, the over-all payroll in 1959 level, at the 1959 level, for Northampton Electric of approximately \$82,000; Northampton Gas of approximately \$61,000; 57 per cent of the payroll was charged to Northampton and they have 54 percent of the meters; 43 percent of the payroll was charged to Northampton Gas and they had 46 percent of the meters.

I think that is a good basis for saying that the allocations are quite reasonable and fair.

XQ. Now, isn't it a fact, Mr. Johnson, that on the customer accounting reflected on page 40, Exhibit 91, the estimated increases of \$415,600 on the pro forma basis, reflects other costs that are not customer accounting costs? A. Yes, sir.

The \$415,600 contains costs other than commercial costs.

XQ. Other than customer accounting costs? A. Other than customer accounting costs.

XQ. What is the validity of this figure of \$415,600?

A. That represents the loss of economy because of severance as shown in Exhibit 58, in any and all of the sections dealing with customer accounting. The second section of each specific company report, for example, page 626, staying with Northampton Gas, the \$31,400 and if you add that sum to the sum shown in each of the gas company [1777] reports under Customer Accounting, you will come to the total of \$415,600.

XQ. Now, how do we know whether or not you figure \$415,600 includes \$100,000 or \$200,000? A. What did you say, sir?

XQ. How do we know whether or not your customer accounting figure of \$415,600 includes \$100,000 or \$200,000 of cost that should be distributed among some other accounts? A. It does include costs that should be distributed to other accounts, other than commercial expenses.

XQ. Well then, this exhibit does not reflect the actual facts, does it? A. Yes, sir. That is on the functional basis and it certainly represents the increase in the customer accounting functional area of the loss of economy due to severance.

XQ. But you have other items included in there. A. Yes, sir. We have telephone operators, janitors; but in each and every case they are clearly identified within each page of the report.

XQ. Now, as I understand it, you take the increases; for example, Northampton Gas, \$31,400 and then you go to the other, and you take the comparable figures, and that all adds up to \$415,600, is that right? A. Yes, sir.

[1778] XQ. On that basis, are we not warranted in using the figures and comparison which we used a while ago of \$2.12 for gas; and \$2.59 for electric?

Mr. Vorenberg: For what purpose?

Mr. Nowlin: For the purpose of testing the accuracy of this estimate.

Mr. Vorenberg: The witness has already explained there are offsetting items.

Mr. Nowlin: Why did you include them in here? Why doesn't he give us a figure we can check?

Mr. Vorenberg: I think if we go back to the original purpose of the Ebasco report, it was to present as clearly as they believe it possible to present, all the data on the basis of which you and anyone else could draw conclusions. The fact that by taking a relatively small section of the report, and making the customer comparison, you don't show the whole picture, seems to me to be irrelevant; you have to work your way through this, page by page.

Mr. Nowlin: Do you mean we are going to have to cross examine this witness on each one of these studies to get the facts out of here to determine what the actual customer accounting increases are?

Mr. Vorenberg: I should suppose not. The facts are here in the report. I should not think it is necessary to. We certainly agree that you can ask any [1779] questions you want to on that.

Mr. Nowlin: We are taking the facts that appear in this report, and one of the facts you gave us is that the accounting customer cost for Northampton is \$19,000—in another figure, it is \$15,500.

How can you reconcile those two figures?

Mr. Vorenberg: He also testified, I understand, there are offsetting items in the general accounting area that—if you will examine the report or the peculiarities of the territory or otherwise—that explain these comparisons. I don't think—

Mr. Nowlin: He also testified nowhere in this Ebasco report are these items disclosed. We have to guess at them. He, only, in his own mind, knows how he computed these figures.

May we have just a short recess?

Hearing Examiner: Yes. We will take a 5-minute recess.

(Brief recess)

Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, the staff had prepared a statistical compilation showing a comparison of the customer accounting payroll costs of the eight NEES gas companies, actual and pro forma, for the year 1958. All of these figures are obtained from Respondent's Exhibit 58-A except the staff have computed the per customer figures [1780] reflected on this exhibit. So I would like to offer this into evidence as Division Exhibit No. 2.

(Division Exhibit No. 2 was marked for identification)

Mr. Vorenberg: Does Mr. Nowlin propose to put a witness on to explain how this was prepared?

Mr. Nowlin: I don't think it is necessary to put a witness on the stand, to sustain a figure that is taken here from an exhibit. Of course, we would introduce this subject to check for accuracy.

Mr. Vorenberg: I am not referring to accuracy. I am talking about how it was prepared; the relevancy of the way he drew the figures off of the report.

Mr. Nowlin: Now, these are actual figures taken off of Respondent's exhibit, and the only thing the staff has done,—

Mr. Vorenberg: Is that something you are testifying to?

Mr. Nowlin: No. I am assuming you are testifying to the validity of these figures.

Mr. Vorenberg: I don't know where these figures came from.

Hearing Examiner: Gentlemen, I think if there is no objection to this exhibit, that it should be introduced through the testimony of whoever prepared it.

Mr. Nowlin: May we—

[1781] Hearing Examiner: Do you want to withdraw the present witness and put your witness on the stand now?

Mr. Nowlin: I would like to withdraw the present witness.

Hearing Examiner: Do I hear any objection to that?

All right. You may retire temporarily, Mr. Johnson.

The Witness: Thank you, sir.

(Witness temporarily excused)

Whereupon,

SAMUEL GISHMAN

was called as a witness by and on behalf of the Division of Corporate Regulation, and being first duly sworn, was examined and testified as follows:

*Direct Examination*

By Mr. Nowlin:

Q. Please state your name. A. My name is Samuel Gishman.

Q. Will you state what your position is? A. I am Financial Analyst on the staff of the Division of Corporate Regulation, engaged in this case.

Q. Mr. Gishman, do you have in your hand a tabulation entitled "Eight NEES Gas Companies Statement Showing Comparison of Customer Accounting Payroll Costs, Actual and Pro Forma, Year 1958"? A. I do.

Q. Did you prepare this exhibit? [1782] A. I did. Yes.

Q. Would you tell us the source of the information reflected thereon? A. All of the basic figures appearing on that statement—by basic figures, I mean the total number of customers and the dollar amounts of payroll for each company, were taken out of Respondent's Exhibit 58-A, exactly as they appeared in that exhibit.

Q. You did not purport to vouch for the accuracy of the figures taken from Respondent's Exhibit 58-A? A. No, sir. I took them just as they appeared there. The only figures that did not appear in Respondent's Exhibit 58-A are the per customer figures appearing on the various columns and the percentage figure appearing in the very last column. These per customer figures and percentage figures are merely arithmetical computations derived from the basic figures taken out of Respondent's Exhibit 58-A.

Mr. Nowlin: And, Mr. Examiner, I should like to offer this exhibit into evidence as Division's Exhibit No. 2, subject of course to the check for accuracy.

Mr. Vorenberg: Since this has been just presented to us, Mr. Examiner, we would request, in accordance with the procedure which has been in effect since the beginning of this case, that we have an opportunity to cross examine on it, after we have had an opportunity to review it.

[1783] Hearing Examiner: I think that is a reasonable request. I will hold the reception of this exhibit in evidence and when you desire to cross examine Mr. Gishman, we will return to this exhibit at that time.

Mr. Vorenberg: I would like just by way of clarification, to ask a couple of questions now.

Hearing Examiner: Very well.

#### *Cross Examination*

By Mr. Vorenberg:

XQ. Just taking one of these figures, Mr. Gishman, will you tell us exactly from where in Exhibit 58-A the figures are taken? A. Yes, sir. We will take Central Massachusetts Gas, as an example.

XQ. All right. A. The number of customers for Central Massachusetts Gas, 9,595, appears on page 105 of Exhibit 58-A. The figure of \$51,600, Central Massachusetts, appears on page 129 of Exhibit 58-A, in the column headed

"Actual". The figure of \$70,200 appearing for Central Massachusetts in this exhibit, also appears on page 129 of Exhibit 58-A.

In the column headed pro forma, the figure of \$18,600 appearing on Division's Exhibit No. 2 is merely the difference between the \$70,200 and the \$51,600. The figure of \$5.38 appearing on Division's Exhibit No. 2 [1784] is nothing more than arithmetical computation, dividing the \$51,600 by the number of customers, namely, 9,595. The figure of \$7.32 appearing on Division's Exhibit No. 2, is again nothing more than arithmetical computation, which is the result of dividing \$70,200 by the same number of customers, namely, 9,595.

Similarly, \$1.94 and the 36 percent appearing on Division's Exhibit No. 2 are arithmetical computations, based on the underlying basic data that I have already described.

XQ. With respect to the other seven companies, the computation was taken off the similar table in the report. Is that right? A. That is correct.

Mr. Vorenberg: Mr. Examiner, we have no objection to the admission of this actual exhibit, at this time, subject as you said earlier, to our opportunity to cross examine at some later date.

Hearing Examiner: All right. Very well.

Subject to the right of cross examination of Mr. Gishman, this exhibit about which he has been testifying, is admitted as Division's Exhibit No. 2.

(Division's Exhibit No. 2 for identification was received in evidence.)

Whereupon,

[1785]

THOMAS JOHNSON

resumed the stand and was further examined and testified as follows:

*Cross Examination (Cont'd)*

By Mr. Nowlin:

XQ. Mr. Johnson, turning to comparison of the customer accounting cost of Lynn-Gas—the Gas Department of Lynn Gas and Electric, particularly drawing your attention to page 342 of Exhibit 58-A, which indicates customer accounting payroll cost for 1958, for the Gas Department of Lynn, of \$168,400, as against a cost for the electric department of \$211,300, which appears at page 925 of Exhibit No. 58-B, now, according to page 305 of Exhibit 58-A the gas customers number 40,922 as compared with 45,378 electric customers. As we compute it, these comparative costs amount to \$4.12 per gas customer and \$4.65 per electric customer.

How do you explain this disparity between these costs?  
A. If you will look, please, sir, on page 319—

XQ. Of 58-A. A. Yes, sir. The total overall treasury and accounting payroll cost for the Electric Department was approximately \$312,000; for the Gas Department, \$217,000.

XQ. Yes, but you are—the figure you have just referred to is the total accounting cost, not the customer accounting cost? [1786] A. That is right, sir. You cannot just take a small segment. You should take it from an overall basis, on the overall basis of the total treasury and accounting, using the figures I just quoted, the \$312,000 for the Electric Department and the \$217,000 for the Gas Department.

This represents 60 percent of the payroll as allocated to the Electric Department and 40 percent as allocated to the Gas Department which is reasonable in comparison to the number of gas meters and electric meters.

XQ. Now, Mr. Johnson, why did you set up this separate category of customer accounting cost increases of \$415,700?  
A. This is a grouping of personnel, sir. I mean, there are other costs that are involved in customer accounting—

or commercial expenses other than payroll. There are numerous costs involved.

XQ. Yes. Well now, again, why did you set up that category or ask to be set up this category of customer accounting cost of Exhibit 91, page 40?

Hearing Examiner: That is substantially the same question and the witness said something—was that your reason for doing it, handling it, as you have indicated?

The Witness: We have shown the customer accounting grouping on page 40.

Hearing Examiner: This is the reason you are giving for the way you presented the matter. Is that right?

[1787] The Witness: Yes, sir.

Hearing Examiner: All right.

The Witness: We show the customer accounting grouping on page 40 as a method of clarifying and presenting the report in a clear fashion. As I mentioned earlier in my testimony this morning, if you would go through each one of the specific gas companies, and would add up the increased payroll cost as shown under the customer accounting grouping, you would come to the figure of \$415,600.

It should be clearly understood that the \$415,600 does not represent in its entirety, increased costs for customer accounting functions or so-called commercial expenses.

XQ. Now, how can we possibly tell what the total increases are then? A. You can see in each section of the report, the increased personnel requirements under the grouping of the customer accounting.

Mr. Nowlin: Mr. Examiner, this may be—may I show you this exhibit that we are talking about to get some comprehension of it?

Here is the summary table of the estimated increases on pro forma basis, broken down by Ebasco under these different categories.

Now, you notice that the biggest single item there [1788]

of \$415,600, of increased costs, is attributed to customer accounting. We have the item, 61,600 attributed to general accounting. Since this is the biggest item, it is important that we be able to get at the determination of the validity of this figure. That is what is causing much of this circuitous examination.

Hearing Examiner: Mr. Nowlin, the way this strikes me is that you are asking these questions of the witness, repetitious in character, and you are not getting the answers you would like to get, and I can—I don't see there is anything I can do to—

Mr. Nowlin: It is not getting the answer I would like to get, Mr. Examiner. It is trying to get an explanation of the item that is actually reflected here.

We cannot, on the basis of the witness's testimony, we cannot reconcile his testimony with this figure.

Hearing Examiner: Well, if you cannot, the record will have to stand that way, won't it? I am not curtailing your examination, but I don't see that I can—

Mr. Nowlin: I am just presenting this so you get some idea of what the cross examination was about here, on this particular subject.

Hearing Examiner: Well, I am glad to have it. I don't see that I can participate in the examination because I have not too much familiarity with all these factors and figures.  
[1789] By Mr. Nowlin:

XQ. I believe the figures you quoted from page 319 of Exhibit 58-A were \$312,822 for the Electric Department of Lynn and \$217,455 for the Gas Department of Lynn. Is that correct? A. Yes, sir.

XQ. Those figures represent the part time cost, don't they? A. Well, you can add on the \$23,000 full time and the \$9,000 full time for the gas.

XQ. All right. If you added to those part time, the full time, what figures would you get? A. Approximately

\$335,000 for the electric and approximately \$226,000 for the gas.

XQ. Now, I think we previously indicated that the electric customers totaled 45,378 and the gas customers totaled 40,922. Dividing the electric customers into your total electric figure, we get a per customer cost of \$7.40 per customer as against a \$5.51 per customer cost for the gas.

Now, how do you justify that wide difference? A. Well, you are taking the figures which I just quoted, the \$335,000 and the \$226,000. You should not divide customers in there to get a cost per customer, because we are talking now about overall total treasury [1790] and accounting costs. As I mentioned previously, this payroll allocation between electric and gas represents 60 per cent allocated to the electric and 40 percent allocated to the gas which is a reasonable allocation in comparison to the 40,900 gas meters and the 45,300 and some electric meters.

XQ. Do you mean to say that the method of allocating costs, other than the customer accounting costs, is different; that it is allocated on revenue basis or some other basis? A. I was making a comparison for you, sir, and I was establishing the fact that this allocation of 60 percent to the electric and 40 percent to the gas, for the overall treasury and accounting payroll costs at Lynn is a reasonable allocation between electric and gas in relationship to the number of electric meters and the number of gas meters.

XQ. If you were comparing the customer accounting costs between two different utility companies, how would you go about making such comparison? A. Comparisons can lead to—sometimes can lead to unsound conclusions. You must be certain that all factors, are one and the same.

Generally speaking, if you wanted to compare cost per customer of any utility companies throughout the nation, you would take their commercial cost and would [1791] divide it by the number of customers.

XQ. Well, isn't that the proper and fair way to make a comparison? A. I think it is a fair way but as I say, you must be sure that you are comparing likes.

XQ. Are we comparing likes when we are comparing two different departments in the same company? A. Now, we were just talking a few moments ago about commercial costs. Now we are talking about payroll costs. So again, these are two different things. There are other costs involved, other than commercial costs.

XQ. I just asked you how you go about comparing the cost of two different companies. A. I did not compare the cost of these companies at all. My job here was to construct the pro forma organizations and come up with the staffing requirements as if the companies were run on an independent basis and then ultimately, on a combined basis.

I was not comparing dollar cost here, and dollar cost there. I was determining and establishing what the personnel requirement is upon an independent operation and upon a combined operation.

XQ. We are talking per books now; not pro forma.

How could you possibly determine, Mr. Johnson, [1792] that the allocation between Lynn Gas and Electric Departments were fair, if you did not make comparisons? A. I made comparisons, sir, and I have discussed those comparisons in my direct testimony. I have discussed some this morning and I have discussed them from an overall treasury and accounting point of view and if you care to, I would go down each district treasury organization, and give you the allocations as they were made during the year 1958 that led me to the conclusion that they were fair and reasonable.

XQ. Well— A. I would be happy to do that.

XQ. I am just asking about the present Lynn Gas and Electric Department actual figures comparison of those, and ask you to justify the difference, in view of the comparatively small difference of customers.

What justification is there for that difference? A. Allocations are done on a basis of judgment. I don't think that you would ever find two or three people who would maybe, perhaps make the identical allocation. They are different.

XQ. Did you not testify this morning, Mr. Johnson, that the proper way to make an allocation on customer accounting, was on the basis of customers? [1793] A. I say that is a good measure, yes, sir.

XQ. Is there any other fairer measure? A. As far as customer accounting costs are concerned, the number of meters; the number of customers in my opinion, is a most reasonable tool to use.

XQ. That can be reduced to mathematical certitude, can it not, if you take the customer allocation basis?

A. Yes, sir. It can.

XQ. If that is the fair way to do it, why is that not the way you allocated these costs? A. I did not allocate these costs during the year 1958. They were allocated by the Lynn Company.

XQ. If that is the fair way— A. I did not make any allocation whatsoever.

XQ. Did you not say these allocations were fair? A. Yes, sir. In my mind, the allocations during the year 1958 were fair.

The gas companies bore their proper share of the treasury and accounting costs.

XQ. How do you reach that conclusion? A. By taking the overall payroll and comparing it to meters and coming up with percentages. For example, in the North Eastern District Treasury Organization—and I am sure that I testified to this in my Direct last May—in the Lawrence area, we have Merrimac-Essex [1794] Electric Company; Lawrence Gas Company and North Shore Gas Company. Taking the overall payroll, Merrimac bore 76 percent of that

payroll and they had 72 percent of the meters. Lawrence bore 11 percent of the payroll and 14 percent of the meters. North Shore bore 13 percent of the payroll and 14 percent of the meters.

In the Malden area of the Northeastern District Treasury Organization, where they have Suburban Electric Company and Mystic Valley Gas Company, Suburban bore 48 percent of the payroll and had 45 percent of the meters.

XQ. What? A. Mystic Valley.

XQ. What are you talking about? A. The total overall treasury and accounting payroll of personnel assigned to the Northeastern District Treasury Organization in the Lawrence area and the Malden area, during the year 1958.

XQ. May I— A. I did not finish that last one, sir.

Mystic Valley, the payroll—52 percent of the payroll was allocated to Mystic Valley. They had 55 percent of the meters. In my opinion and in my judgment, this represents a fair and reasonable allocation.

XQ. Is it your testimony that a customer basis is the fair and proper way to make an allocation of all of the accounting costs including customer accounting costs? [1795] The Witness: I feel that using the customer or the meter basis for allocating accounting cost is a fair way of doing it and gives a reasonable result.

XQ. And how do you justify the difference of \$7.40 per customer overall accounting cost for Lynn Electric as compared with \$5.51 overall per customer payroll cost for the Gas Department? A. Those figures that you just used there, is that from the customer accounting grouping on the Lynn payroll or is that from the total overall?

XQ. That is the total accounting figure you gave of \$312,822 for the electric and \$217,455 for the gas. You say those are the figures you use, and we use them and come up with those differences. A. We can do anything we want with figures.

Hearing Examiner: Off the record.

(Discussion off the record.)

By Mr. Nowlin:

XQ. Do you have any doubt about the accuracy of the figures, Mr. Johnson? A. No, sir.

XQ. Will you explain the differences then? A. The \$7.40 for the electric, the \$5.51 for the gas, the electric should bear a higher cost on the basis that you used there because we have more activity in electric. We have more [1796] work orders, more stores items. There is a difference between electric and gas operations. You have the electric plant in Lynn, generating station, etc. It is quite different.

XQ. Well, then suppose we remove from the \$412,000 figure any item except the customer accounting cost and get on to those costs which are directly related to servicing the customer? How do you explain these differences on that basis? A. Now, sir, you are talking about on page 318, the 81 electric employees and the 81 gas employees.

XQ. We are talking about the figures you gave us on page 319 of Exhibit 58-A. A. I am sorry. What is the question.

XQ. Well, we have tried to get your view, looking at the overall, taking all the accounting costs and relating that to per customer cost to get you to justify the variance there. Then you say, well, that isn't a proper basis because there are certain factors, Lynn Electric has certain factors, etc. We say, okay, we will go back to the customer accounting cost, which is related exclusively to the servicing of customers, to eliminate these pure electric aspects, and let us justify the differences on that basis. A. What were the costs for the electric customer and the gas customer? When you take on page 318 the customer accounting payroll—what were those figures that you had, please?

XQ. We were using a figure of \$168,400 for gas and

that [1797] figure is taken from page 342 of Exhibit 58-A. Now, that is the customer accounting payroll. Now, for the Electric Department, we were using a figure of \$217,300 for the electric, derived from page 925 of Exhibit 58-B. Now, dividing the number of customers for the gas which is 40,922 and 45,378 for the electric into those figures—and these customers are taken from page 305 of Exhibit 58-A—we get a customer cost of \$4.12 per gas customer as compared with \$4.65 per electric customer. I am asking you to explain or justify the difference in those two figures. A. There is a minor difference here between \$4.65 and \$4.12.

XQ. I think that is obvious. What is the reason for it? A. I say that we should look at this on an overall basis. As I mentioned before, when you take the total treasury and accounting payroll, which shows an allocation of approximately 60 percent to the electric and 40 percent to the gas, which means that it is a reasonable allocation in that the gas department is bearing its fair share of the cost.

XQ. While we are on this point, do you know in the Lynn Gas and Electric territory whether or not the gas meters are inside of the homes and whether the electric meters are on the outside of the homes, or just the location of the meters? A. In the Lynn area the gas meters are indoors.

XQ. Where are the electric meters? A. The electric meters a very small percentage of them, [1798] could be outdoors.

XQ. So far, Mr. Johnson, we have been talking about the actual per customer cost. I want to turn your attention to a pro forma comparison. As we indicated awhile ago the actual costs are \$4.12 per gas customer and \$4.65 per electric customer. On the basis of our computation on a pro forma basis the cost to the gas is \$7.48 per customer as compared with \$7.23 per electric customer. In other words,

there is a complete reversal. On an actual basis the gas costs less. On a pro forma basis the gas costs more. What is the justification for that change? A. In the pro forma organization gas for the Lynn organization we transferred a function which was during the year 1958 included in the payroll and mailroom section into the customer accounting group.

XQ. If you transferred that pro forma, why didn't you make a comparable transfer per books? A. This report and these figures as shown under the various groupings are not per books. This is not an income statement or a financial statement. This shows the increased cost of personnel due to severance. It is not a question of per books.

XQ. If it was proper, Mr. Johnson, to transfer those personnel on a pro forma basis why wasn't it equally proper to make an adjustment on an actual basis? A. The payroll and mail room organization set-up was [1799] there during the year 1958, and the reason that we put it into the customer accounting group was so we would again have a uniformity throughout this report. We felt that it assisted in clarity.

XQ. Now, Mr. Johnson, doesn't this \$415,600 pro forma figure represent an increase over the actual reported cost for 1958 in Exhibit 91, page 40? A. Yes, sir, the \$415,000 represents the increased cost of personnel shown within the classification or grouping customer accounting throughout the various sections of the report.

XQ. Now, you started with an actual figure then less than it should be, didn't you, by not including these two personnel which you included in the pro forma figures? A. No, sir. Take, for example, page 342—

XQ. Of what Exhibit 58? A. 58-A. Throughout all of the groupings in the report under customer accounting, general accounting and stores, and at the moment we are looking at the one on customer accounting, we show an

increased cost in the customer accounting grouping of \$137,700, and as I previously mentioned, if you will go to this particular section in each report and add up the \$137,700, the amount applicable for Nystie and North Shore and Northampton, and the other companies, you will come to the \$415,400 figure. So we have at all times considered each and every person.

XQ. Wait a minute, though. I believe you stated the figure [1800] \$217,500 as reflected on page 342 included the transfer of two personnel to customer accounting, is that right? A. I didn't say two, and offhand I don't remember how many, but some of the clerks shown under payroll and mail were transferred over to the customer accounting grouping.

XQ. Now, will you identify the particular personnel? A. I couldn't do that, no, sir. I don't know which ones they are.

XQ. Do you know the total cost? A. Well, they had to be in some of these part-timers that are shown under clerk 5, 4, 2 and 1. So they would appear someplace on page 342 under those grade groupings.

XQ. Now, the personnel that you are talking about are not included in column 1, that is the present—they are included— A. No, they are not included.

XQ. But they are not included in the present. A. They are not included in the present, but they would be included in the pro forma. They are included in the actual on page 340, but they are not included in the pro forma on 340.

XQ. Well aren't you really comparing two different things? A. No, sir, absolutely not, sir.

XQ. Well, isn't it a fact, Mr. Johnson, that you are starting with a figure of \$153,800 on an actual basis that doesn't include this personnel that was transferred on a pro forma basis? [1801] A. The people who were transferred from the payroll and mail group on page 340 are not included

in the present grouping shown on page 342. They are included in the pro forma. So, in other words, they are not shown in two places, absolutely not.

XQ. Let me see if I can boil this down to where these documents will be plain to me. You started with your \$415,600 figure reflected on customer accounting which represents an increase over the actual cost in 1958, isn't that true? A. Yes, sir.

XQ. Included in those actual costs for 1958—not included in that cost are some personnel that are included in your pro forma figures, isn't that correct? A. What is that, sir?

XQ. Do I make myself clear? Read the question back.  
(The pending question was read by the reporter.)

By Mr. Nowlin:

XQ. In other words, your actual figure that you started with doesn't include the personnel that are reflected in your pro forma figure, isn't that a fact? A. No, it is not a fact.

XQ. Well, didn't you just testify that this personnel are not included on page 342, column 1? A. They are shown on page 340 under parttime actual and they are not shown in the pro forma on page 340. They are not shown in the present on page 342. They are included in the [1802] pro forma on page 342. I can't make it any clearer.

XQ. Well, now, your table on page 340 is general accounting, isn't it? A. That is right, sir, and as I say, included in this payroll or mail group were individuals that were transferred over into the customer accounting grouping on the pro forma organization. The payroll and mail grouping was disbanded in its entirety in the Lynn pro forma. We have established, as I mentioned yesterday, and as I mentioned in my direct testimony, I established a framework for these pro forma organizations and basically it consisted of general accounting, customer accounting groups, and

stores accounting groups. In order to make Lynn uniform on a pro forma basis, I continued with Lynn in that manner, and I did it for the sake of clarity.

XQ. All right.

Now, I asked you about the allocation of the gas and electric meters in the territory of Lynn. Can you tell me what the similar situation is throughout the NEES System?

A. Throughout the Nees—the entire NEES System?

XQ. Where they are combination operation, gas and electric operations. A. The similar system—what is this?

XQ. Are the gas meters of the gas companies generally in the NEES System located inside of the houses? A. The gas meters for the NEES System are located inside of [1803] the houses, yes, sir. I don't think there are even fifty there outside.

XQ. What is the situation with respect to the electric meters where there are combination operations? A. I may be wrong on the percentages, and it varies from area to area, I think on an overall basis there could be approximately 35 percent of the meters, electric meters, outdoors. I think that is the figure. I would have to check that.

XQ. You are talking about where they are combination electric and gas operations? A. I don't know. I know that the percentage of meters outdoors are electric. Now, you are asking for something else. You say of the combination electric and gas.

XQ. No, that was my first question. A. Oh. I will answer by saying that approximately 35 percent of the electric meters throughout the NEES System—and that is the entire system, even outside of Massachusetts—is approximately 35 percent.

XQ. Would I would like to do is to get you to stick to the combination of gas and electric operations. Can you tell me where the electric meters in those combination

operations are generally located? A. I can't identify that down to that point.

XQ. Do you know? A. We would have to look at the meter reading books there. [1804] They are marked, the location of the meters. We would have to make an analysis to determine that.

XQ. You didn't make any study of that? A. I am familiar with it and I was familiar with what was required to read the meter books.

XQ. Do you know the performance record of the reading of the gas meters as compared with electric meters? A. I am familiar with that, sir.

XQ. Can you tell us what it is? A. Again, it depends on the location. If the electric meter is outdoors, then, of course, it is much easier to read, but reading of the meter is not the important thing. The important thing is getting to the location regardless as to whether it is indoors or outdoors. Of course, if it is indoors, you have to wait for the wife to come to the door, and you may have to go back again because no one is at home, and gas meters, unfortunately sometimes are located in difficult spots in some of what they call cold water flats. You could find them, perhaps, even in a bathroom or in a kitchen.

XQ. Do you know generally how many gas meters a meter reader can read in one day? A. Again, that would depend upon the particular territory we are talking about. If he was going into apartment houses where we have a bank of meters he could read any number of them. In an area that is scattered, where he has a large amount of walking, of course, his production would drop.

[1805] XQ. You don't know whether the performance record in the NEES system was with combined operations? A. I know approximately how many meters were read in the various areas, yes, sir.

XQ. Do you know specifically, Mr. Johnson, what is the meter reader's performance record in the NEES area where there are combination gas and electric operations? A. It varied from, oh, approximately 115 and 120 up to 270 meters per man per man day.

XQ. Forgetting about the time getting to the area of the meter reading, do you know the time it requires in the NEES combination area, not generally, but this area? Do you know the time it ordinarily takes a meter reader to read a gas meter as compared with reading an electric meter? A. Once he is at the meter, then there is no difference. All he does is glance at it simply as I glance at that clock and I have read the meter.

XQ. You can't glance at it from inside the house, can you? A. I said once he was at the meter. He has to be at the meter before he can read it.

XQ. Once he is in the area where the meters are located and starts out reading meters, isn't the substantial difference in the time locating the gas meter located in the house and locating the electric, reading the electric meter on the outside [1806] of the house? A. Again I go back and say if the house is set back well off the street, the man walks in and has to walk up to the outside of the meter which is outside, if it is electric. He would then have to go around and inside and read the gas meter. It would take him longer to read the gas meter in that particular instance than it would the electric meter if it were outdoors.

XQ. Did you take any of those factors into account in arriving at your estimated performance in the Ebasco report? A. I absolutely did.

XQ. Can you tell me how you reduced those factors to a definite dollar figure? A. Reduce it to a definite dollar figure. I determined what the reading requirements would be and then applied the payroll, et cetera. I knew how many men we needed to read those meters on a pro forma

basis versus combination basis, enjoying the benefits of the electric association.

XQ. Can you tell whether or not the cost is a fair allocation if you didn't know those facts? A. Again I go back to the allocation I have discussed this morning and in my direct testimony, sir, I say they are reasonable. They are fair. And in my judgment I was satisfied with those allocations.

XQ. But you paid little or no attention in the formation [1807] of your estimated cost of the meter reading to the actual time required to be used to read a gas meter or an electric meter; is that correct? A. No, sir, I did not do that. I determined what a man could read in a workday, the number of meters that he could read and I took into consideration all of the various factors that you must consider when establishing a fair man day of work.

XQ. But you can't still tell me the difference in time that it takes to read a gas meter and an electric meter? A. You give me a particular instance, an example and I will try to explain it.

XQ. I will give an example of one house that has a gas meter located in the basement and an electric meter located on the corner of the house. What is the difference in the time required of a meter reader to read that electric meter and go inside the house and read the gas meter? A. He could go to the door and if the woman was taking a bath, he could wait a long time; if she is on the telephone, he could wait a long time.

XQ. What is your experience? A. The experience record is that we read, on an average, as I have mentioned, from 115 up to 270 meters per man per day.

XQ. Do you know whether or not you could call any Ebasco [1808] utility clients and ask them for that specific information and get it in detail as to the actual time to read a gas meter as compared with an electric meter? Do

you know whether you could get that information or not?

Mr. Vorenberg: Is that one single given meter?

Mr. Nowlin: They have got it broken down in all categories.

The Witness: Mr. Nowlin, I have what you called rerouted gas meters for natural gas companies and you must take into consideration all kinds of factors when you establish these books, these meter reading books. You have to decide and know whether they are in one family houses, two family houses, whether the meters are in the basement, whether you have an apartment house, whether it is what you call a car book, where the man must have a car to drive because of scattered distances and each book is a tailored book. At the same time you have to take into consideration the workloads and, unfortunately, union considerations. Some companies do not read in inclement weather. The men refuse to do it and it is even included in union contracts. Normally for NEES they make a fair effort in inclement weather. I think that answers your question.

By Mr. Nowlin:

XQ. How could you possibly, Mr. Johnson, make any kind of a realistic estimate on a pro forma basis of the cost of separating the electric and gas without having some detailed [1809] knowledge of the time required to read gas meters and the time required to read electric meters?

A. Well, you use the word "cost", but I say that I established and determined the number of meter readers that were required to read these gas meters on a pro forma basis.

XQ. How did you determine that? A. Based on workload, the number of meters that I felt in my judgment a man could reasonably read in a normal work day.

XQ. Mr. Johnson, directing your attention to Respondent's Exhibit No. 90 and particularly to the item "com-

mercial", you will note there that the per customer cost for such is \$6.04, and it gives the same information for the other gas companies in the NEES system. Now we would like to have the comparable figure for the five electric companies in the NEES system that conducted joint operations with these gas companies. Can you supply that?

Mr. Vorenberg: It seems to me it would be an orderly and more reasonable procedure if Mr. Nowlin has requests for information, additional studies and work to be done by the NEES group for those questions to be directed to counsel rather than to a specific Ebaseo witness who has been employed to do the work that has already been described. Mr. Nowlin realizes the work that has been done to date has been an enormously detailed, thorough and costly and I think it is not a reasonable [1810] procedure for these questions for additional work to be directed to the witnesses such as Mr. Johnson. We would be very glad to discuss with Mr. Nowlin, as we have in the past, where we readily supplied information when he has requested it and I don't think the way to do it is to direct the question to a specific witness.

Mr. Nowlin: How did I know that this witness didn't have the information until I asked him the question?

Mr. Vorenberg: You didn't ask if he had it. You asked if he could prepare it.

Mr. Nowlin: Does he have it available?

Hearing Examiner: Have you this information available at the moment, Mr. Johnson?

The Witness: No, sir, I do not.

Mr. Nowlin: This witness has testified to the fairness of the allocation as between the gas and electric operations. I don't see how he could possibly reach a conclusion unless he had these figures available to him.

Mr. Vorenberg: Are you testifying to that?

Mr. Nowlin: It is a statement. Counsel, will you supply us with those figures?

Mr. Vorenberg: We will consider it and reply in due course.

Mr. Nowlin: I don't want consideration; I want a yes or no answer.

[1811] Hearing Examiner: They are entitled to a reasonable time to consider the request. Can you consider that during the luncheon recess, Mr. Vorenberg?

Mr. Vorenberg: We will consider it during the luncheon recess and report on our consideration when we return.

Hearing Examiner: Very well.

Mr. Vorenberg: I must ask you to state again exactly what the nature of your request is, Mr. Nowlin.

Mr. Nowlin: I referred to Exhibit 90. The commercial column there, the per customer cost for gas customers reflected on your exhibit, I want to get the comparable figures for the five electric NEES companies that conduct joint operations for these gas companies.

Mr. Vorenberg: Thank you.

Mr. Nowlin: Mr. Examiner, we have been asking questions from Respondent's Exhibit 90 and we have received some supplemental data from Mr. Hanson for NEES that we would like to request counsel for respondents to introduce as an exhibit properly marked Exhibit 90-A.

Mr. Vorenberg: Mr. Examiner, I believe that data that Mr. Nowlin has requested is included as a schedule or included as an attachment to a letter from Harry Hanson to Francis H. Spencer, dated June 21, 1960, submitting first an estimated breakdown by major function and account as to the net effect of severance of income accounts of the eight gas companies [1812] assuming they would be operated either independently or combined and, second, a tabulation showing the 1958 operating expenses per customer of certain Massachusetts gas companies derived from the

returns filed with the Massachusetts Department of Public Utilities. This, as Mr. Nowlin has indicated, was previously supplied to the staff at their request and we suggest the letter and attachments be marked as Respondent's Exhibit No. 104.

I might add that the second attachment, the 1958 operating expenses per customer of various gas companies, is a revision of Mr. Johnson's working paper which was, at the staff's request, introduced as Respondent's Exhibit No. 90.

Hearing Examiner: Very well, Mr. Vorenberg, Mr. Hanson's letter to Mr. Spencer, dated June 21, 1960, with the three schedules attached thereto, are admitted as one exhibit, Respondent's Exhibit 104.

(Respondent's Exhibit No. 104 was marked for identification and received in evidence.)

Hearing Examiner: Off the record.

(Discussion off the record.)

Hearing Examiner: On the record.

Mr. Vorenberg: Mr. Examiner, the staff has requested that an additional sheet that was prepared by the staff on the basis of information provided by Mr. Hanson orally at the staff's [1813] request be introduced as a supplement to this Exhibit 104, which has just been introduced. We are glad to offer this as perhaps as Respondent's Exhibit 104-A since the two are related.

Hearing Examiner: Very well, let it come in under that number and be identified as Respondent's Exhibit 104-A in this record.

(Respondent's Exhibit 104-A was marked for identification and received in evidence.)

Hearing Examiner: You may proceed.

By Mr. Nowlin:

XQ. Mr. Johnson, directing your attention to Respondent's Exhibit 104 and also to 104-A, which has just been introduced into evidence, on Exhibit 104, under the last

sheet of 104, under the item entitled "commercial", you notice the figure \$1,106,494, which is the average for the Massachusetts Gas Companies. A. The total.

XQ. Now, if you look over to 104-A, you will find the comparable figure was \$1,429,994 on a pro forma combined basis or a difference of \$323,500. Am I going too fast for you? A. No, I understand perfectly.

[1814] XQ. How do you reconcile the increase of \$415,600 in customer accounting cost as reflected on Respondent's Exhibit 91 at page 40 with the \$323,500 increase in commercial costs reflected on Respondent's Exhibit 104? A. The \$415,000 are shown in Exhibit 90 on page 40 and represent increased costs that are shown under the groupings of customer accounting in Exhibit 58-A. Of that \$415,600 only \$323,500 was allocated to commercial expense. The balance was allocated to other operating expense account, administrative and general or other appropriate accounts.

XQ. Why would any expenses per customer accounting be included in general and administrative? A. For example, on page 229 of Exhibit 58-A the Lawrence Gas Company, under this grouping of customer accounting the total increased cost was \$27,100, and as I have previously stated, taking this \$27,100 and every amount in that same category throughout the reports totalized will give you \$415,000, but now when this \$27,100 was allocated to various accounts it was analyzed and determined that, for example, all of the janitors, of the \$12,000 increase shown above there as the last item, should not be charged to commercial expenses because those janitors and that \$12,000 is not a proper charge to commercial expense. Some of it should be charged to other expenses. You go through the whole report and you will come up then with eliminations that amount to the difference between the \$415,600 and the [1815] \$323,500 figure which you just mentioned.

XQ. How important is the system customer billing as a component of the total customer accounting cost? A. It is an important consideration, and again, this goes back to our discussion of yesterday—meter reading is an important customer service activity. I wouldn't place it first or last or in the middle. I would treat them all together, relatively together.

XQ. But it is one of the major items in making up the customer accounting cost? A. I didn't say that, sir.

XQ. I am asking you if that is true. A. I didn't say it is a major item. I say it is one of the items. Meter reading, cashiering, customer service, credit and collection activities—it is one of them.

XQ. Isn't it a fact, Mr. Johnson, that the aggregate billing costs are among the major items making up the customer accounting costs? A. It is not one of the major items. It is one of the items. Billing does involve quite a bit. So does meter reading. So does cashiering.

XQ. Doesn't billing cost involve more than meter reading cost? A. I don't have this broken down to a cost for billing, cost for meter reading, cost for cashiering and cost for [1816] customer service.

XQ. Isn't that generally true that the billing cost, aggregate billing cost, is one of your principal items making up the cost of customer accounting? A. I wouldn't say that, not from my experience and not in my opinion.

XQ. What item is? A. I say they are all important. I go back and repeat this, and I said it yesterday and I say it again today.

XQ. I am not trying to get you to make a comparison of items. You have got an estimated increase in the customer accounting cost of \$415,600. Now, you must know of your own knowledge what particular items will represent the major portion of those costs, don't you? A. Yes, sir, and I have clearly defined them.

XQ. Now, I am asking you if billing costs aren't one of the major items making up that total cost. A. One of the important items. It is not a major item.

XQ. All right. It is one of the important items.

Do you know whether or not there are any advantages to be gained from central billing operations? A. It depends on what company we are talking about. There are various factors involved. If we could become more specific I could discuss it more specifically.

XQ. Well, lets stick to the NEES gas companies. Aren't [1817] there now joint billing operations between certain of the combination gas and electric operations in the NEES System?

Mr. Vorenberg: What do you mean by billing operations, Mr. Nowlin?

Mr. Nowlin: I assume that is a term he has used. He ought to know what it is. Preparation and sending out of bills.

By Mr. Nowlin:

XQ. Do you understand the term, Mr. Johnson? A. Yes, sir, I do.

Mr. Nowlin: What was my question now?

(The pending question was read by the reporter.)

The Witness: The answer is yes there are. Lawrence and Merrimack have a billing center. Mystic Valley Gas Company and Suburban Electric have a billing center. Northampton Electric and Northampton Gas do their billing at the one location, which is centralized as far as the electric and the gas is concerned. Norwood Gas, which is one of the smaller ones, does its own billing in Norwood. Wachusett and Central Massachusetts bills are prepared at Worcester County under the central district treasury organization, along with the bills of the Worcester County Electric.

XQ. Do you know whether or not it has been found to be feasible and economical to carry on these joint billing operations in the joint companies? A. Well, it is feasible. Sometimes it is a question of [1818] whether or not it is economical. The degree of centralization. There are other factors that you have to consider.

XQ. Well, are you meaning to state that these joint billing arrangements in the NEES System now are not on an economical basis? A. No, sir, not by any matter or means. They are done very efficiently and adequately.

XQ. Does it follow your opinion then that there are economies to be realized from joint billings? A. Again it depends. If you will give me a specific case. I feel that you are not making real economy, so to speak, or any substantial economy of any kind, by having a centralized billing center in every instance. It all depends on the circumstances. For example, in the Mystic Valley punch card installation, if you have machine time available you might just as well use it because you are going to pay rental on the machines anyhow. So you may pick up some billing rather than do it at another location on an independent basis.

XQ. Wouldn't that make for an economy of operation, or at least an abandonment of service? A. Before you could adequately and precisely determine whether or not there would be any economic savings through centralized billing you would have to make a detailed study.

XQ. Let me give you a concrete example in the NEES System—strike that for the moment. Did you make any detailed [1819] study to determine whether or not economies could be effected by joint billing among the NEES gas companies on a combined basis? A. No detailed study was made, but I certainly considered this centralized billing for the combined operation and in my opinion and my judgment there would be no economy made by such a move.

You would introduce other considerations if you were going to do such a thing. As a matter of fact, we have 235,000 meters, I think, that are involved.

XQ. Did you in making your study of these possible joint billing arrangements come up with the conclusion that no economies would be effected in the combined operations by joint billing? A. No, there were other considerations that were factors or part of the factors in my coming to that conclusion, and that was that in the smaller companies we get quite some flexibility and use out of personnel and the billing function, for example, in Central it is not too difficult at all and not too much of a workload to perform at that particular location. Norwood has been functioning that way for quite sometime and it has worked out very well for them. Certainly in the Norwood Gas Company, with only, I think it is approximately 5,000 meters, we have the good fortune to be able to use a billing machine operator, and I say for a few hours or maybe an hour a day, and we are able to use that same employee maybe to relieve a cashier at rest periods and lunches, answer the telephone, handle customer inquiries, and do other things. So when we have minimum [1820] organizations such as we have here in this pro forma organization we must be able to have flexibility within our working groups.

XQ. Now, do I understand that you made an actual study of the possibility of having joint billings, or that you just generally considered the matter? A. I said I considered the matter and for—well, in the first place, I say there are other considerations involved, which I have just described and discussed. I have considered it, and I do not feel in my judgment that centralized billing would result in any economy as far as the eight gas companies combined are concerned.

XQ. But you didn't make any specific study; you just relied on your general knowledge, is that right? A. I

didn't make a detailed specific study of that particular area, no, sir.

XQ. Now, the example that you have just given us related to most of the smaller companies in isolated areas. Now, I want to take you to North Shore, Lynn and Mystic, the bigger companies, all of which are located roughly in an area which we have computed out to be 15 miles wide and about 28 miles long. Now, is there any reason why there couldn't be economies effectuated by joint billing among those three companies? A. As far as Mystic Valley is concerned that is on punch card equipment and the complement of equipment and personnel in the pro forma organization is sufficient to take care of [1821] Mystic's necessity.

If we were to bring North Shore into there we would have to rent additional IBM equipment and increase the amount of personnel we show in Mystic Valley Gas Company under the machine accounting group. It is just as economical for us to perform North Shore billing on key driven equipment. They have approximately 32 or 33 thousand meters, and therefore we wouldn't gain anything by bringing it into Mystic Valley. I would say you would know all your billing was done in one spot.

XQ. Then how would you come to the conclusion that economies are now being realized from the joint billings by the combination operations? A. I don't know whether there are economies being realized. I say they are functioning well. You could perhaps do it on a decentralized basis and for the same cost. There is no reason to say, in the first place, I think you have to remember that in this centralized center at Mystic, which is the biggest one—and by the way, 100,000 of the 235,000 accounts we are talking about were at this center—we had the benefit of the electric companies there, and we got a larger volume. Now we are tearing out the electric. The same thing was true at Worcester. We

had all the Worcester County electric customers there. So it was easy enough to pick up Central, and what was the other one? Wachusett.

XQ. Now, as I understand it, it is our understanding you [1822] made a study of the pro forma operations on a combined basis of North Shore, Lynn and Mystic, and you concluded no economies could be effected by those companies having joint billings, is that correct? A. Mr. Nowlin, I didn't make a study. In my opinion, a study would have taken considerable time and would have had to be in sufficient depth to come to a sound conclusion, and in my judgment and my opinion there was nothing to be gained by centralizing the billing activity of North Shore, Lynn and Mystic Valley. As a matter of fact, Lynn also had punch card equipment. So that is now 145,000 out of the 235,000 accounts that do use a limited form of sophisticated—if you want to use the word—equipment.

XQ. Well, wouldn't the joint use of the rental equipment of these three companies effect economies over their independent operations? A. It all depends on the degree of machine utilization. In other words, if we have what you call a calculator and we have one in one of the companies, if we have to go out and get another calculator simply because we pick up another 30,000 accounts, that is not an economical measure. We would be better off to do it on key driven equipment at another location.

XQ. I am not familiar with the particular type of machine operations you are talking about, but it seems to me it is absolutely logical to expect that with the increased volume [1823] of customers that you would have from the joint billing of the three companies, you could utilize to a better advantage the machine equipment with the customers of three companies than you could with one company; is that correct? A. As far as key driven billing machinery is concerned, what you say is absolutely cor-

reet; that we would get a better utilization out of that machine, but Norwood has one, Northampton had one. They are relatively inexpensive. The maintenance charges on them are very little. The training of personnel and conversion, and so forth—we avoid all of those costs. To my mind—in my opinion, too—there is nothing to be gained by this centralization that you speak of.

Hearing Examiner: Is this a good point to stop for lunch until one-thirty?

Off the record.

(Discussion off the record)

Hearing Examiner: We will recess at this point until one-thirty this afternoon.

(Whereupon, at 12:30 o'clock, p.m., the hearing re-cessed until 1:30 o'clock, p.m., of the same day.)

[1824-1825]

AFTERNOON SESSION

1:30 p.m.

Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Examiner, before the luncheon re-cess Mr. Nowlin asked if we could provide the Staff with figures showing the commercial costs for the five electric companies on a basis comparable to that shown in Exhibit—the last sheet on Exhibit 104—Respondent's Exhibit 104. We think those are taken from the Massachusetts Depart-ment of Public Utilities figures and we believe we can have them available provided we can obtain them.

Hearing Examiner: Do you gentlemen want to confer about something, or shall we go ahead.

Mr. Nowlin: Off the record.

Hearing Examiner: Off the record.

(Off the record discussion)

Hearing Examiner: On the record.

**THOMAS JOHNSON**

was recalled as a witness, was examined, and testified as follows:

*Cross Examination - Cont'd.*

By Mr. Nowlin:

XQ. Now, Mr. Johnson, just prior to the recess, I think we were talking about customer billing—that term is used in your report—what function does that actually cover? [1826] A. Customer billing would include the actual preparation of the customer's bill. It would include certain pre-audit activities. It would include summarization and classification of revenues and rates—what we call bill proving. In other words, assuring that the bill was computed properly. This is generally, mainly what it would consist of.

XQ. In other words, the meter readers go out and read the meters and prepare their books or cards and turn them into the offices and then your customer billing picks it up and they prepare the bills. Is that correct? A. That is right, sir.

XQ. And they mail out the bills? A. They are mailed out, not particularly by the customer billing group though. The bills may, if they are done at the Center, they may go back to the branch office to be mailed from there, so they would have it on the local town postage stamp, something like that.

XQ. Is there any reason why the function of customer billing couldn't be performed at any one spot in the NEES area, except, maybe for the time, the lag in getting the meter reader's books to the Center? A. Are you speaking now, sir, of a combined operation?

XQ. No, just the customer billing. Wouldn't it be practical, assuming, except for the time element, for a centralized customer billing to be done for the whole system—

[1827] NEES system at one point, if it were economical to do so? A. If it were economical to do so, it would be perfectly all right, yes, sir.

XQ. Are you familiar with Boston Edison's operations? A. No, I can't say that I am.

XQ. Do you know whether or not they use centralized billing or a commercial type billing? A. From the little I do know about Boston Edison, I think they serve in a rather compact area and I would imagine that they would have a centralized billing center.

XQ. Would you know whether or not—their service area isn't as large as the combined service areas of North Shore and Mystic and Lynn Gas? A. I do not know the area that Boston serves. I am not familiar with that.

XQ. Do you know the area served by Boston Gas Company? A. No, I do not. No.

XQ. Do you know the area served by any of the other large gas and electric companies in Massachusetts? A. No, not Massachusetts.

XQ. Well, are you familiar with the general operation of the Washington Gas & Light Company here in the District of Columbia, and adjoining areas? A. I have never worked for them sir.

XQ. Would you have any idea how the area served by the [1828] Washington Gas & Light Company would compare with the others in the NEES system? A. I am not familiar with that.

XQ. Are you familiar with any utility areas as far as how the area served is comparable with the area served by these three gas companies? A. I am familiar with a number of them.

XQ. Do you know of any of those companies who have anything other than centralized billing? A. Yes, sir.

XQ. Which companies? A. I know that, for example,

Montana-Dakota—they have their billing on a divisional basis. They have decentralized billing centers.

XQ. Isn't there quite a difference in the area served by Montana-Dakota and these three gas companies? A. There are a number of billing centers—say, five or six of them, which, in a way, are comparable to the NEES setup, in a general way.

XQ. Well, this area served by Montana-Dakota four or five times covers the area that NEES serves? A. When you take one of the billing centers or areas, or divisions, it becomes comparable, in a way, to certain of the companies of NEES, particularly those you mentioned, Lynn, North Shore, Lawrence, in an area together.

[1829] XQ. So they have Central billing in those areas in each Division? A. They bill on a Division basis, yes, sir.

XQ. Are you familiar with the territory served by Philadelphia Electric Company? A. Generally, I am.

XQ. Wouldn't you say that the area served by Philadelphia Electric Company is as extensive as that served by the three gas companies in the NEES system, namely, Mystic, North Shore and Lynn. A. That would be fairly accurate.

XQ. Do you know whether or not Philadelphia Electric maintains a central billing setup? A. I think they do.

XQ. Isn't it rather unusual in the utility industry not to have a central billing setup? A. It is not unusual. Organizations are constantly changing. Nothing ever remains the same and you are always having improvements and you are always working towards centralization. I don't think it is completely unusual.

XQ. Do you know, whether or not, Mr. Johnson, one of the factors advocated by the different Holding Company System in the economy of operations, was a centralized billing center? A. You take Middle South. That is a holding company. I have worked for some of the companies in

Middle South. [1830] They don't have a common billing center for all of the companies within the system.

XQ. Doesn't Arkansas Power & Light System have a centralized billing center? A. Within the four companies in the Holding Company System, they don't.

XQ. You have quite different factors. Middle South stands over a different area as compared to these three gas companies? A. They are just across the river. They are not combined.

XQ. Louisiana Power and Light has a centralized billing system? A. Yes, sir.

XQ. Arkansas Power and Light has a centralized billing system? A. Yes, sir.

XQ. Niagara has a centralized billing system? A. Yes, sir.

XQ. Covering practically the whole state of New York? A. Yes, sir.

XQ. It is unusual in the utility industry not to have centralized billing? A. The tendency is to have centralized billing, yes, sir.

[1831] XQ. In this particular case, why isn't it feasible for these three companies to have centralized billing, and economical? A. It is feasible, but it is a question as to whether or not it would be economical. In my mind, I don't feel you would make any substantial savings by centralizing the billing in these particular companies mentioned.

XQ. Where do they vary from those other companies we named that do have centralized billing? A. We don't know, in these other companies, whether they are making a substantial economy. Sometimes, centralized billing is done to have better control over the billing. Many other factors are involved in those companies you mentioned. Other things come in when you have centralized billing. Accounts receivable or decentralized accounts receivable—all kind

of arguments go with the customer accounting functions. It is difficult to find two companies exactly the same.

XQ. Isn't it a fact, Mr. Johnson, there is no question but what, in a mass operation of the type that is involved here, billing for say 200,000 gas customers, that economies could be effected by having a centralized place where you could utilize the machines and the services of the employees for that one function. Isn't that a fact? A. I am not familiar, in any detail at all, with a study which is currently in progress with the NEES system and this is what we call a computor feasibility study, and it [1832] is doing exactly as you said, taking into consideration the economic desirability of centralizing the billing, utilizing a large scale high speed computor. Definitely, with the gas and electric, there would probably be some economy with the total system put together, but you are not going to take it all at once. You are going to take it in steps.

XQ. Now, do you know how many machines that these three gas companies use at the present time or utilize at the present time for their billing? A. Now, we are talking about Lynn?

XQ. Lynn and Mystic and North Shore. A. Lynn and Mystic, during the year 1958, used punch card equipment. Lawrence used key driven equipment, one machine. North Shore bills were prepared at the punch card center in Malden, which was operated by Mystic Valley and Suburban Electric. What it amounts to is wherever we had combination accounts, they went to the billing center where the electric accounts were billed, because we were able to utilize the same address card to address the gas bill and electric bills and could use the same addressograph plate and we had to up-date one card and change one addressograph plate. You simplify it when you have a combination electric gas activity.

XQ. How far is Norwood from the heart of the center

[1833] served by these three gas companies? A. Oh, Norwood—I guess it is about an hours run out of Boston, or out of Malden.

XQ. How far is Lawrence from the heart of the center of these three companies? A. Lawrence is about 40 minutes, I think, out of Malden.

XQ. Well, is there any practical reason why Lawrence and Norwood couldn't be served from a central center in the heart of the operating area of these three companies, along with ~~these~~ three companies? A. All of this could be done but you introduce other problems, such as, if we do this, we are going to be transporting meter reading books; you have a communication system setup. It is a question of just how much economy you are going to get out of a move such as that. In my judgment, I don't feel it would be too substantial.

XQ. Well, is this just a general feeling on your part, Mr. Johnson, or did you make a detailed study to determine the economy that may or may not be realized? A. As I mentioned to you, I did not make a detailed study, but I know when we take the 235,000 customers on a combined basis, if they were severed from the NEES system—in the first place the economy could never justify a high speed computor. They couldn't afford an installation like that, since they bill on a bi-monthly basis. We have 235,000 meters, [1834] which would mean approximately 117,000 bills monthly, or 115,000. You could justify nothing other than conventional punch card equipment and this is my reason for saying that I doubt if there would be any economy to speak of. There may be some—I am familiar with companies where we have made studies, where they have been on a decentralized basis, used key driven equipment, and have made studies to go into more sophisticated equipments, and you have conversion costs you should amortize. Once you do this you have employee training problems,

union problems. In my mind, the economy should be substantial before you could go ahead and make such a move as this. It would have to be worthwhile.

XQ. Well, now, do these three gas companies we are talking about, and the other companies, for that matter, use the same type of billing machinery? A. Again, sir, I mentioned this in my direct. I described each type this morning. In Norwood, they use a key driven burroughs machine. In Central Massachusetts and in Northampton—Northampton is done by the Northampton Electric, and they use a key driven machine. Central Massachusetts, and Wachusett, send their bills to the Worcester Center where key driven, National Cash Key Driven Machines are used, along with the Worcester County.

XQ. Isn't it a fact that the Worcester service area extends, probably, three times over the space the Wachusett Gas Company does? [1835] A. Oh, yes. Worcester County has considerably more customers.

XQ. Per area served? A. I would have to look it up.

XQ. It isn't that important. Do you know whether or not the NEPSCO Company has been seriously considering the installation of electronic equipment for doing centralized billing for the entire NEES system? A. Just a few moments ago I mentioned they have a study under way and that is being considered. I am not familiar in any detail with it, but I know that they are very definitely looking into the desirability and the economic savings that can be made, and, of course, the Gas company would benefit from this installation in the event it was found to be economically feasible from the System's point of view.

XQ. Doesn't that indicate to you that in the Management's view point, the economies can be effectuated by centralized billing? A. When you talk NEES System we are talking about billing customers—a million customers or so. That is something a little different. We have a

million customers in NEES and 235,000 customers in the Gas Companies on a combined basis. That is the whole point of this thing. The larger the volume you have, then you are probably able to [1836] substantiate a large scale high speed computer system. Now, I say, that the Gas Companies combined, I know, without question, they absolutely could not justify even a medium scale type computer system from an economic point of view. I know that and know it well.

XQ. You have other costs. You have personnel, labor costs are involved—wouldn't there be some savings in a better centralized billing, than if you had separate areas? A. Machine rentals are considerable. That would cost \$4500 to \$5000 a month.

XQ. Isn't the labor cost of performing the customer billing also a substantial item? A. No, and again, we discussed that this morning and it is not a major item, not a substantial item. It is one of the items.

XQ. You have the machine cost of customer billing, you have labor costs and personnel cost of machine billing. Isn't the personnel cost also a substantial item in relation to the rental of machines? A. Personnel cost is not a substantial item. Of course, the more sophisticated equipment, the lesser amount of personnel because you are paying a higher rental on the equipment and you would expect to use lesser people. They would have to be, of course, of a highly trained type and have the technical ability to operate the complex machines.

[1837] XQ. The type of billing machinery which you are presently using requires more personnel than the more complicated operations would require, doesn't it? A. The type of machinery we are using today?

XQ. Yes. A. This is a very, very simple thing. A girl can learn that in literally an hour or so. It is a simple key, they call it key driven. It has a number of keys; you drop

the bill in, make the impressions of those indicating the right symbols, and out it comes.

XQ. What I am referring to is not ease. How many girls does it take to operate it? A. Again, I mentioned this this morning. At the Norwood Gas Company I doubt if that girl is around that machine an hour, hour and a half a day.

Hearing Examiner: A single person?

The Witness: Yes, sir. There are only approximately 5,000 customers there.

Hearing Examiner: This machine has only one person, part time?

The Witness: Yes, sir.

By Mr. Nowlin:

XQ. Mr. Johnson, do you know what the tendency is in the utility industry, on a national viewpoint, toward centralizing—for the establishment of centralized billing as [1838] against a diversification? A. Definitely, I would say, that the centralized billing is, perhaps, predominant, more than predominant. In other words, of utility companies, most of them are on a centralized billing basis—billing only.

XQ. That would be with very few exceptions, as far as you know? A. Yes, sir. That is true.

XQ. At what point, Mr. Johnson, does it become—from the viewpoint of the number of customers, does it become feasible to have centralized billing on an economical basis? A. You can't pinpoint that. Again, it depends on the equipment, the distances you are going to travel, all kinds of other factors come in. I wouldn't select a figure unless I made—unless I was familiar with a specific circumstance.

XQ. Isn't the biggest factor the number of customers? A. You have to have sufficient volume. The volume decides the type of equipment you are going to use.

XQ. Volume is the number of customers? A. You can have, for example, with this large installation in Worcester, which uses key driven equipment, you would have the same efficiency I would imagine, now—I am saying this—you could take out two or three of the machines in Worcester and put them in another location and take two or three more from Worcester and put them in another location, and you wouldn't [1839] affect the cost of billing at all, because the girl is going to operate the billing machine practically all day long in Worcester and there are a number of machines there. It is a large installation. It wouldn't make any difference. The same thing with the Public Service. The Public Service, a large Company in New Jersey, uses the same type of equipment, National Cash Key Driven Machines in their billing operation, as is used in Worcester and other companies I described.

XQ. Doesn't the whole thing depend on the number of customers and the number of bills you have to render? A. The type of equipment depends on that—the Public Service—they have a centralized installation in Newark, New Jersey. They could decentralize into Trenton and Camden and some of the larger cities and it would not result in any increased cost.

XQ. Isn't it a fact that I can fill out a bill of one customer on a typewriter, and if I have got 25 customers, it probably requires two typewriters; 50 customers, it might require a billing machine. Isn't the type of customer billing dependent entirely upon the number of customers you have and the number of bills that are rendered? A. When you address the bills, you usually use an addressograph plate or punch card, and it wouldn't have anything to do with it. As long as you have sufficient volume, on a decentralized basis, it wouldn't make any difference.

[1840] XQ. I am asking you at what point the volume

is sufficient to justify a change in the machine equipment? A. On a monthly billing basis, you can start to seriously consider conventional punch card equipment when you get approximately 100,000, 150,000.

XQ. Well, now, you mentioned 235,000 gas customers here. Isn't it about time to consider it? A. I don't say you are going to make any saving. It could be, even, at a break even point. As a matter of fact, I have talked at quite some length to a man who is on a computer committee for a large utility, and they have recently placed an order for this particular computer and they say they are at the break even point when we take this thing and when we get it, we are not making any saving but we are starting toward progress, we are going to have to rely less on employees. We will get some other benefits out of it but they will not be economic at this particular point. Many utility companies who have gone to this large scale equipment recognize this. They are not making any economies to speak of at all, but they are moving forward.

XQ. Mr. Johnson, assuming that the combined companies were separated from the NEES System, and were to request—were to ask, rather, for your opinion, as to whether or not they should install a centralized billing arrangement, what would your answer be? [1841] A. I would not give them a definitive answer until I made a study, in sufficient depth to give them a sound recommendation.

XQ. How can you give us an opinion then? A. That is a different case. Here, I say, in my judgment, these decentralized billing centers will not result in any substantial increased cost, and you will not make any substantial savings by doing it on a centralized basis.

XQ. Is that the answer you would give the Management? A. I told you I would make a study in sufficient depth.

XQ. I may have covered this, Mr. Johnson. How are the bills now sent out—on a monthly or bi-monthly basis? A. They were bi-monthly, all but Lynn and they are bi-monthly in the pro forma, all but Lynn.

XQ. Now, is there any practical reason why centralized billing could not be continued on the present basis even though the gas companies were separated from the electric companies? A. I do not know of one arrangement where utility companies are sharing equipment, personnel, etc., for a common billing function, or for any other as a matter of fact, meter reading or anything else. I have no knowledge of any of them doing this. It is just not practical.

[1842] XQ. I asked you why isn't it practical, despite the fact the industry would prefer to have them separated? A. You come into problems of scheduling and problems of personnel. You are going to have all the personnel on one company's payroll and you may have unions in each one and they may say, why don't we have this billing function and the other will say, no, no, we are going to have them over here.

Hearing Examiner: What did you mean by schedule. Is that a matter of priority of work?

The Witness: That is what I mean. The company that would have the billing equipment would, maybe, have a tendency to do its own first.

By Mr. Nowlin:

XQ. Well, of your knowledge, do you know of any practical reason why centralized billing could not be continued on the present basis except that it would not be the choice of the companies? A. I would never recommend it.

XQ. Why not. A. Because of the problems involved in scheduling, employees, and you are not just doing your own work. Here you are relying on another party to perform an essential operation for you.

XQ. Do you know, whether or not, in the industrial areas, and at least in professional areas, that many doctors and [1843] professional people have a centralized billing and collection agency doing their work? A. I don't think we can compare doctors to utility companies. We have two hundred some thousand customers. I don't think a doctor puts out that many bills a month.

XQ. I can see where it is a matter of choice, but I still can't understand your testimony as to any reason why, from a practical matter, it couldn't be done—continuing exactly as it is today. A. In the Wall Street area, where they have a service center, a brokerage house utilized the services of the service center, and found they weren't getting their own work out on time. They installed a computer just to be sure they get their own statements out on time. It is not a satisfactory arrangement when you have a day to day operation and must get your work out.

XQ. I want to ask you the same thing with respect to meter readers. It isn't customary in the industry to have joint meter readers. Is there any reason why that service couldn't be continued to perform as it is today? A. Somebody would have to get the book first, to do the billing, either the electric company or the gas company, whatever it is going to be, or the water company. This is, again, a subject that has been discussed at utility seminars for years on end. They even talk about reading water meters [1844] together, electric meters together, gas meters. It has never been found practical. As a matter of fact, when I worked for a utility company we considered that with another company and it was turned down flat because we felt we had no control over our work.

XQ. Isn't it a fact that your firm, Stone & Webster, and some of the other service companies render different types of services for various utility companies. A. We render

consulting services. We don't perform any routine operations such as billing, meter reading, stuff like that. That would be prohibitive.

XQ. Don't you perform several functions, perhaps at a higher level than meter reading, for various utility companies? A. We perform a number of services for utility companies and industries.

XQ. Where do you draw the line to render services, what is practical above the line and not practical below the line? A. Are we talking about consulting services?

XQ. You are more familiar with the services rendered by Ebaseo than I am and by Stone & Webster. I am asking you if there is some parallel. The service companies do perform services for various utility companies in certain areas? A. We perform consulting services, yes, sir.

XQ. The consulting services are different from the manual [1845] services of meter reading and so forth, but it seems to me the same principle would apply. A. Here, we are talking about production. We don't render production services.

XQ. Mr. Johnson, directing your attention to Division's Exhibit No. 2, put in evidence this morning— [1846] A. That is the NEES Gas Company statement. Yes.

XQ. Now, under the actual per customer costs, you note that in this exhibit, that the figure is \$2.12 for Northampton Gas Light as compared with \$5.38 for the Central Massachusetts Gas Company.

How do you account for this wide variance in the per customer cost of these two customers? A. I discussed Northampton this morning.

In the first place, these costs in here—cost per customer—do include much more than customer accounting functions.

XQ. I am talking just of the customer accounting payroll cost, now. A. Yes; but as I say, sir, for example, going to two-two-two on Lawrence, we have a janitor in there. Well, he is not really part of customer accounting, and yet, he is included in that figure.

XQ. That still does not explain the difference between the two figures, though. A. Well, not trying to tie it to the five-three-eight; not trying to go into the two-one-two, because I don't think that you can compare them—these figures just cannot be compared; but there are basic differences between Central Massachusetts Gas Company and Northampton.

[1847] Central Massachusetts operates three offices; Northampton Gas has one office. This is a major difference, but these figures, I do not concur that they measure the cost per customer.

XQ. Well now, Central Massachusetts has 9,595 customers, and Northampton has 8,023 customers. There is not much difference in the amount of customers. Why does Central Massachusetts operate three offices and Northampton only one? A. Because of the territory served.

XQ. What is the difference in the territory served? A. Well, Central Massachusetts, has an area of approximately 200 square miles; Northampton about 47. You can look at the map on page 106. You will see that Central Massachusetts is a wider area.

XQ. Well, I think we said a while ago— A. Northampton on 606, is a more compact area.

XQ. Well, do you mean that the larger area in Central Massachusetts justifies the three separate offices? A. Those three offices are there to render adequate service to customers.

XQ. Well then, Central Massachusetts area is larger than the other three gas companies we have been talking about, is it not? That is, North Shore, and [1848] Mystic

and Lynn? A. Well now, we will have to look at each one of those. All of these companies are different. It is rather hard to try to say—try to compare them—Wachusett is 88 square miles; Lawrence is 86; North Shore is 85; Mystic, 102; Norwood, 10; and Lynn 40.

Central Massachusetts is the largest area in square miles—200; as a matter of fact, it is practically double, sometimes four times as large, as far as area served, as some of the others, particularly of Lynn. 20 times as big as Norwood.

XQ. Well, if the service area of Central Massachusetts is considerably larger than that of Lynn, why does the per-customer pro forma cost of Lynn, amounting to \$7.48, exceed the per customer cost of \$7.32 for Central Massachusetts? A. As I say, I do not concur that these figures can be compared, because of differences in here.

XQ. Well is it your contention that the area served makes the difference? A. That is one of the factors. One of the factors; but these costs that you have here include personnel that are included in the customer accounting grouping in this report. They are not necessarily customer accounting employees or employees who devote full time to customer accounting work. Some of them are telephone operators; [1849] some are janitors; some are messengers.

XQ. I believe, according to your testimony this morning, that on your pro forma basis, you have all of these companies on a uniform per customer basis. You have all of these companies on a uniform per customer basis. Isn't that right?

Uniform, functional basis. Is that right? A. It is a grouping. They are grouped under the customer accounting heading in here.

XQ. They are not all grouped in the same way? A. They are all grouped the same way but they contain personnel

other than personnel who engage in customer accounting activities.

For example, Lawrence, on 229, they have a telephone operator, a messenger, and a janitor.

Mystic Valley on page 441, we have a janitor, fireman, watchman, messenger, supervisor of mail room, telephone operators.

So they are not customer accounting employees. They are grouped here under customer accounting, because we have these three basic groups, under the Treasury and Accounting. We have the general, the customer and the stores. These people are grouped here for convenience and for administration and supervision.

So what I am saying, that as far as Mystic Valley [1850] is concerned, for example, the five-twelve-eight hundred, maybe we should take out the five firemen at \$20,000 and the messengers at twelve-two; and the portion of the supervisor for the mail room at four; and some of the telephone operators, in order to get this on a somewhere near a comparable basis.

XQ. Did you not testify this morning that in projecting your pro forma estimates, that you started at the same base for all these companies? You made the necessary adjustments; you put them all on the same footing? A. I analyzed the personnel that were required to perform the various accounting operations in these companies. I then determined the number of people that would be required in those same functions, on an independent basis; simply because they fall under this customer accounting grouping does not indicate that they are wholly and exclusively customer accounting employees.

XQ. Well, did you not treat each company on a pro forma basis on the same footing? A. Yes, each company is treated that way. That is what I say throughout this report. You will find in this customer accounting group

personnel that are not engaged in customer accounting activities.

XQ. Then they are all on the same basis, are they not? [1851] A. Oh, no! Here, look, Mystic, you have five janitors.

XQ. Well, it is a bigger company, is it not? A. Yes, it is a bigger company. That was one main office and ten branch offices, different than Lawrence, that has one office.

XQ. Well now— A. They are all different.

XQ. I thought you were in disagreement with some of the allocations of customer accounting on actual basis; when you started to make your pro forma effort, you made all these adjustments to put the companies on an informal basis. A. I did not look at the allocations when I first started out here. I constructed and determined the number of personnel that were required to operate these companies on independent basis and then on a combined basis, I determined the number of people that were required.

XQ. Well, I repeat again, as I understood the testimony this morning, in making your pro forma estimates, you made whatever adjustments were necessary, and so forth, to get these companies in the same category—the same classification—applicable to each of these companies, so they would be uniform. A. I said I established the organizational structure so we would have a similar pattern: Stores, general accounting, [1852] customer accounting. That was the reason that, for Lynn, we moved the payroll and mail, so we would get them all on the pro forma basis, so they would be in comparable headings or groupings.

XQ. Now, no where have you set up a pro forma organization for customer accounting for a particular company. You set up the number of persons and costs which

you thought would be applicable or necessary for that particular company, did you not? A. Yes, sir.

XQ. Did you differ from those adjustments when you went from company to company? A. Well, the personnel requirements differed because of the different situations in each one of the companies.

XQ. But the personnel classifications are the same? A. No, they are not all the same because we have different unions.

XQ. Well then, as I understand it, your pro forma estimates are subject to the same vagaries that the actual figures were that you mentioned this morning. A. What actual figures did I say?

XQ. The actual figure this morning, where you said that there were three people not reflected in the actual figures that you show up in the customer accounting costs; [1853] that some of the general accounting employees were doing work that you thought ought to be included—I thought you said. A. No. You asked me this morning about Northampton and I said that in some of these smaller offices, and particularly the one you selected—Northampton—some of the general accounting personnel did perform customer accounting functions.

XQ. Therefore, you included those under your projected pro forma figures? A. In the pro forma figures, where we show in the customer accounting group, the personnel in there are adequate to perform the customer accounting functions. In addition, in that grouping you will find messengers, janitors, telephone operators, and other personnel who are not engaged in so-called customer accounting activities.

As I mentioned this morning, where we had one of them, we did not establish for example, a building service group. They are here for Administration and Supervision.

XQ. Well then— A. Normally, you are going to find in these companies that the customer accounting group has more personnel than the stores or than the general accounting group and that is a logical place to put them and the customer accounting working supervisor, is normally always in the office, [1854] so he can give them good and adequate supervision.

XQ. Well, isn't it a fact then, Mr. Johnson, that the categories reflected in your summaries on page 40 of Exhibit 91, do not portray the true facts which they propose to? A. Mr. Nowlin, I explained that this morning.

XQ. Just a simple answer. In other words, you have in your customer accounting items over here on page 40, items that do not literally belong there, have you not? A. No. Everything that is shown there belongs there. The whole \$415,600 belongs in customer accounting, because it is shown and reflected throughout this 58-A, in the customer accounting section of each of the respective gas companies.

In other words, as I have stated before, to account for the \$415,000, if you turn to each of the sections marked customer accounting, you will be able to determine the increased cost or the loss of economy because of severance in that particular grouping and I think the word "grouping" is most important here.

Hearing Examiner: The record will show what the witness has testified previously, this morning; what he said this morning; what he said on his first appearance. Now, can we not let the record stand as it is, instead of arguing with the witness about what he said in the past [1855] and what you claim he said in the past?

Mr. Nowlin: I am not arguing with him. I am trying to get a clarification of what he did say.

Hearing Examiner: The record shows what he said. Why go into asking these questions.

Mr. Nowlin: I think, Mr. Examiner, as a matter of legal principle that in cross examination, you are entitled to a certain amount of leeway and repetition.

Hearing Examiner: Well, in my opinion, you exercised it pretty freely. There must be a stopping point somewhere.

Mr. Nowlin: I hope there is.

By Mr. Nowlin:

XQ. Directing your attention, Mr. Johnson, to page 342 of Exhibit 58-A, you have certain personnel set up there for pro forma customer accounting for Lynn Gas Department.

Is that correct? A. That is right, sir.

XQ. And that totals—the payroll costs total \$279,500. Is that correct? A. That is right, sir.

XQ. And that is for 69 employees, is that correct? A. Yes, sir.

XQ. Are all 69 of these employees considered necessary by you for the performance of this customer accounting? A. Yes, sir.

[1856] XQ. Then there are no employees in this column who do not belong in customer accounting? A. Yes. This looks very much like each and every one will be engaged in customer accounting activities except the Chief Clerk at Marblehead. He may do a little sales activity.

XQ. Now, with respect to each of the other gas companies, would you say that the number of employees in the character of their work, shown on the customer accounting, are necessary to perform that function? A. I am sorry?

(The pending question was read by the reporter)

Mr. Nowlin: I am just relating the same question to all of the companies.

The Witness: They are necessary, but in addition, there are personnel also included in similar headings under

customer accounting grouping that will not be required to do customer accounting activities and also, in Mystic Valley, we show the customer accounting grouping but we also have a machine grouping and the machine grouping and the customer accounting grouping are required together, to perform customer accounting activities and part of the machine group perform some general accounting activities. Again, there are minor differences which are text, which are described in Exhibit 58-A.

[1857] XQ. In estimating the customer accounting payroll cost on a pro forma basis for the eight NEES gas companies, did you make any study or comparison to determine how these pro forma costs compared on a per customer basis with similar costs of non affiliated Massachusetts gas companies? A. Yes, sir. I did.

XQ. Do you have available the comparison which you made? A. This was included and shown in Exhibit 90. I was not familiar with these cost figures until after the pro forma organizations had been established and made firm.

XQ. What use did you make of these comparisons of statistics then? A. I simply wanted to see how the NEES companies stacked up against other Massachusetts gas companies, both on an actual basis and on a pro forma basis.

XQ. Now, are you referring to the commercial classification on this Exhibit 90? A. Yes, sir.

XQ. Isn't it a fact that Norwood is the only one of the eight NEES gas companies that has no joint customer activities with any of the other NEES system companies? A. That is right, sir.

[1858] XQ. Isn't it also true that for this reason, Norwood's pro forma customer accounting costs remain unchanged as compared with its per books cost? A. Well, the cost, the personnel requirements remain the same but

Norwood did have through the Treasury organization, of course, did have association with other companies, although the meter reading, and the billing—all of those customer accounting activities, were carried on right in Norwood.

XQ. I am talking about present time; the customer accounting. A. That is what I said.

XQ. So that my statements are correct? A. Except, as I say now, Norwood belonged to the Southern District Treasury Organization which consisted of the Quincy Electric Company; Weymouth Light and Power and Norwood Gas and the Assistant Treasurer of that group served for Norwood and his staff; so of course, he exercised a certain degree of supervision and administration over the customer accounting activities of Norwood. They came under him as the responsible officer.

The routine activities were carried on in Norwood.

XQ. Well, it is a fact that there is no change in the actual pro forma customer accounting cost of Norwood? A. There could be a change in the cost but there are no changes in the number of customer accounting employees [1859] pro forma versus actual.

In other words, there were six employees, pro forma, at 22,412, of January 1, 1959 levels. That is page 717 and page 710, actual basis. The same six, 22,412.

XQ. Now, how do you explain the fact that Norwood's customer accounting payroll costs on a per customer basis are lower than the pro forma per customer cost of any of the other seven NEES gas companies?

I am talking about payroll costs in each case. A. Well, that is not the full measure. You look at the commercial costs during 1958, for Norwood Gas as filed with the DPU, it is five-six-nine.

XQ. Then again, as I understand it, you think that some of the general accounting administrative costs should have

been included in the per customer accounting cost of Norwood? A. No; but I do know that as far as the Norwood office is concerned, you see, we only have one general accounting employee there, during the year 1958, so some of the customer accounting employees, being such a small office, were flexible and able to perform certain of the routine, general accounting activities. The books were kept over in the Southeastern District Treasury; Quiney Electric.

[1860] XQ. Generally speaking, Mr. Johnson, isn't it a fact that per customer accounting costs in a large gas company would tend to be smaller than such costs for a smaller company? Per customer? A. Again, that depends. You could have a large company where they had no offices. You could have a smaller company that had a number of offices. It all depends on the circumstances; how it is organized; what facilities they provide for customers, and so forth.

(Brief recess)

Hearing Examiner: Let us come to order.

By Mr. Nowlin:

XQ. Mr. Johnson, on a per books basis, who determines what the allocation will be of the customer accounting cost, and the general accounting cost? A. The allocation of accounting costs are determined at local levels in the field, by District Treasury Organizations, the primary responsibility being with the Assistant Treasurer in the area, for which he is responsible.

XQ. Now, do you have any idea of what amount of time is devoted to the allocation? A. Well, each time that there would be any change; a new employee hired or any major change in work load, the responsible Supervisors or Administrator or Assistant Treasurer, would review it and make sure that in their [1861] opinion, that the allocation was properly made between electric and gas.

XQ. Now, how much time would that involve during the making of those allocations? A. That is rather hard to specifically say. It would depend on what is involved. They would probably assemble data in order to make their comparison or conclusion and to reach their conclusion, I would not be able to say exactly what was involved.

I know that the methods of allocation did result in a minimum of clerical effort.

XQ. Could you give us an estimate of the time devoted by the Treasury and associations in making these allocations? A. Well, I guess, I would imagine at the time of a periodic review, which took place at least annually, they would probably spend, well, again, it depends on the area, but they would spend probably several days reviewing all of that. Not at one time. In other words, they would probably take groups at a time but they would have to spend considerable time to arrive at these sound conclusions, which they have.

XQ. Do you mean that would take the time of the officials of each company? Each gas company? A. No. The Assistant Treasurer is the one who has [1862] the responsibility, at the end of it; the managers within the companies are the ones who come up with the allocations, initially.

XQ. Could you give us just a rough estimate as to the hours or dates, and so forth, that the eight gas companies in the aggregate would devote to the questions of allocation? A. I would not be able to give an estimate of the time involved.

XQ. Well, do you think— A. It is review, mostly because the companies are established and the allocations have been made. As I say, they are reviewed annually, and they are reviewed when any changes are made.

XQ. Well do you think it would take an aggregate, say, of a month's time? A. Oh, no, sir. No, sir. I don't see how it could possibly take a month.

XQ. Would it take a week? A. I say, I don't have any idea, but I certainly say it would not take a month.

XQ. And in any event, on the pro forma basis, no time would have to be devoted to an allocation, would there? A. Not if they were a gas company, but of course, you certainly would have allocation between the various accounts in order to comply with the DPU.

[1863] XQ. But you would not have the allocation between gas and electric. A. That part would be missing but certainly, very definitely, you would have allocations to be sure that you were conforming with the Massachusetts Department of Public Utilities Regulations.

XQ. Well, isn't that also true at the present time? A. Yes, sir.

XQ. So now, I think on Direct Testimony, you estimated that the separation costs would amount to \$250,000 over and above your estimated severance cost reflected in the Ebaseo studies. Am I correct on that, on recalling that testimony? A. Yes.

XQ. What was the basis for that estimate? A. Well, I knew what was involved and I had a good idea of what those costs would be.

XQ. Did you make any specific study of these costs. A. Yes. I made enough study, in sufficient depth, to come up with the \$200,000 that I mentioned in my direct testimony.

XQ. Why did you make that study? A. Because I knew that upon severance, there would be quite a considerable amount of work involved and a costly operation in order to establish these companies [1864] on an independent basis that was not reflected in here.

XQ. Well, was that one of the instructions given you by Mr. Quig, to make such a study? A. I would not be realistic; I don't know whether Mr. Quig told me to do that or not. I would not be looking at the whole study

realistically unless I thought, how are we going to get new meter reading sheets? What is that going to cost? We need new customer history records. There are a number of things involved. We have joint records, new addressograph plates, new cards for addressing the customers' bills.

XQ. Now, in arriving at your estimate of \$250,000, what dollar items actually went into that total? A. As a rough estimate, let's say we would have to re-route the accounts and I would say that a conservative figure on the cost per meter to re-route an account, would be fifty cents. So there is some \$100 thousand dollars we have, to prepare new service location records, for all those combination accounts. We would have to prepare new customer history records for all those combination accounts. If I remember correctly, I think that the concern that does that, when they initially set it up, I think it is approximately \$1.00 a record, including the equipment so I would imagine that it would be, again, about fifty cents per record without the equipment, to house it in.

[1865] XQ. Well, now, why did you not include those costs then in the estimated severance cost? A. Well, they are non-recurring.

XQ. Then why did you make that study, if it would not be included in the severance cost? A. Because I wanted to know, in addition to this personnel requirement, what else is involved in this. What does it cost. It is not included in this report. That is the reason that I mentioned it in my testimony.

Mr. Nowlin: Mr. Examiner, I think that is all I have, at the present time.

Hearing Examiner: Have you any questions at this time, or would you like to reserve redirect, Mr. Vorenberg?

Mr. Vorenberg: Again, as with the other witnesses, we would like to reserve redirect.

I would like to just ask a couple of short questions for clarification, if I can.

Hearing Examiner: Very well.

*Redirect Examination*

By Mr. Vorenberg:

Q. Mr. Johnson, why were functions other than those you have described as strictly customer accounting functions included under the heading of Customer Accounting in the Ebaseco report? A. Because when they were included in that grouping, [1866] we provided for administration and supervision and it was a logical and convenient place to locate them.

Q. Well now, would changes in classification as between customer accounting and other groups or headings going from "Actual" to "Pro Forma" have any effect on the total loss of economy shown in the bottom line of page 40?

A. No, sir. Very definitely not.

Mr. Vorenberg: Thank you.

Hearing Examiner: You may retire from the stand.

The Witness: Thank you, sir.

(Witness excused.)

Hearing Examiner: Your next witness.

**ROBERT CAHAL**

was recalled as a witness, and having been previously duly sworn, was examined and testified as follows:

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Cahal, would you briefly state the area of your responsibility for your portion of the Ebaseco study? A.

was responsible for reviewing the business development or sales operation of the NEES system.

XQ. Is that for the gas companies and for the electric companies? A. That is correct. The electric and the gas sales [1867] operation were reviewed.

XQ. That included sales objectives and the activities of personnel, expenses, and results. Is that right? A. That generally covers the scope of the work.

XQ. Now, prior to the undertaking of your actual study for the Ebasco report, did you make any independent study or evaluation of the actual operation of the NEES system with respect to sales to determine whether or not the sales activity should be curtailed or implemented. A. I made such an analysis, yes, sir.

XQ. Did you reduce that analysis to writing? A. No, sir.

XQ. Well, what was the nature of this study? Was it just a general observation or did you make a detailed study and analysis of various facets of the sales? A. It was in some detail, on most aspects. It was an analysis of statistical records. It was a review of promotional materials, that these companies were using. It was also a review of the various sales policy statements of the company.

XQ. Now, turning to your actual study which underlies the ultimate conclusions, just how did you go about that? A. Well, first of all it required an understanding of the market conditions that these companies faced in [1868] terms of the types of customers; the competition, the general promotional climate in which they operated. Compared with that, was the analysis of the type of sales organization; the type of promotional activity that would be required to adequately develop the market potential of the area.

XQ. Now did you, in the course of your study, make any comparisons of either the actual or the pro forma

results with those of other non-system companies? A. Yes, sir.

XQ. What companies did you include in those comparisons? A. I included the other Massachusetts companies.

I included New England companies in general, that I felt were comparable to the NEES gas companies and I also used general survey information on other companies in other parts of the country.

XQ. Do you know how your comparisons of the eight NEES gas companies with the other gas companies in the area worked out? Were they favorable or unfavorable? A. Regarding what?

XQ. Sales promotion, for example. A. I would say that the NEES Gas Company sales operation was typical of the other operations. In other words, because there are variations, of course, between the eight companies themselves; therefore, you had a range of effort. You had a range of result, and these comparisons showed that in [1869] certain instances, they were never at the extremes of this; that they were well, typical of the results in the effort that was being achieved in other companies.

XQ. Well now, did you reach the conclusion that the NEES companies were doing as well or better than the other companies in Massachusetts? A. Yes.

XQ. Well, maybe I should ask you to amplify that.

Do you mean, by way of better sales results, or sales efforts? A. Well, in measuring sales effort, this is difficult to compare sales effort with precise statistical measurement because so much influences the type of sales effort and the resulting cost of that effort. In terms of results, results cannot be isolated, I don't believe, from the market conditions peculiar to each area, and so in evaluating the comparative data, I endeavored to view the results in relationship to the peculiar marketing problems that each company faced.

XQ. Did you make any comparisons of the sales promotion costs of the eight NEES gas companies with those of the other gas companies in Massachusetts? A. I did, merely to provide a framework of reference, as I indicated. I think that a straight comparison, a statistical comparison of sales costs, without fully [1870] understanding the factors behind each cost, would be misleading, and as I mentioned before, what I was looking for was to make certain that for the NEES companies, these comparisons revealed no real unusual cost situation, and as far as specific company by company comparison, the figures were available to me, but I used it in this general framework rather than the specific company by company comparison.

XQ. Did you reduce these promotional costs to the NEES companies to a per customer basis? A. Well, I would like to clarify what we are talking about in terms of cost. New business can be a very general term, covering the total promotional effort or total sales effort of a company.

In addition, new business expense can be a very specific accounting classification.

Therefore, I reduced new business expense in the narrow sense on a per customer basis and I also reduced it on other comparative bases.

For example, percentage of revenues to the '58 sales cost on a per customer basis. There are several comparisons that one might use, and as I indicated, I don't feel like any one of them is completely satisfactory but when several of these are weighed together, I think that you get a fairly reasonable picture.

XQ. Did you also reduce the new business expense of [1871] the non-affiliated Massachusetts gas companies to a per customer basis? A. I had available to me, figures that these companies had reported. I did not do the reducing myself.

XQ. How did the expense of new business of the eight

NEES companies compare with that of the non-affiliated gas companies on a per customer basis? A. New business expense in this narrow accounting classification?

XQ. Yes. A. Well, some of them were lower than the average; some of them were above average. The system average is—I think it is in that Exhibit No. 90. It is below the other non-affiliated Massachusetts gas companies on this basis.

XQ. Directing your attention to Exhibit No. 90 and particularly the column there, "New Business", I noticed the average per customer cost of new business for NEES company was \$5.28 and that the average for the other Massachusetts companies reflected on there, was \$6.10. Is it fair to assume therefore, that the NEES companies were spending less per customer for new business than the non-affiliated companies were? A. The only assumption that you can draw from this, is the fact that the classification of promotional expense [1872] in new business was less than the other Massachusetts gas companies.

XQ. Well, could you give us any other comparison? A. Well, for example, in one of the considerations that I indicated a while ago, is the fact that the total—the company's total promotional program, particularly among these companies, all of which merchandise, that they are spending a considerable amount of money to promote and sell appliances but this money is charged against their merchandising operation.

However, this money may be just as effective, in some cases may be more effective, in building load than money that is allocated to new business.

Therefore, when you consider the new business expense plus the merchandising sales expense, we might call it, my comparison showed that on this basis, that NEES Gas Companies were spending slightly more than the other Massachusetts gas companies on a per customer basis.

Now, this is something that is a matter of allocation and it is a matter of management decision. Management wants to promote through merchandising. It is a perfectly reasonable device to do so.

XQ. Have you any comparable figures to show us on the merchandising cost? A. I have them in my working papers.

XQ. Would you supply that, please, sir? [1873] A. When we add the new business account to the cost of merchandising, except for the cost of the merchandise itself, we will come up with a figure for the NEES Gas Division as a whole, of \$10.19 a customer indicating that their merchandising effort was almost the same size as their new business classification. The total for all other Massachusetts gas companies was \$9.51. The total for all Massachusetts gas companies including NEES and the non-affiliates, was \$9.68.

Actually, I feel that the differences here are not really significant; that the comparison between \$10.19 and \$9.51 is a matter of being in the same general area.

XQ. Now, do you know whether or not, Mr. Cahal, the eight NEES gas companies and the non-affiliated gas companies in Massachusetts all began to receive natural gas from Tennessee at about the same time? Is that correct? A. I am not exactly sure of the chronological order. I believe that the Algonquin customers received gas slightly ahead of Tennessee but it was in the same general period of time; maybe over a period of, maybe a difference of a year or two.

XQ. Do you know which of the independent gas companies, non-affiliated gas companies, in Massachusetts, listed on Exhibit 90, obtained their gas requirements from Algonquin? [1874] A. The companies that received their gas supply from Algonquin are the Boston Gas Company; the Brockton-Taunton Gas Company; Buzzards Bay Gas Company; Cambridge; Fall River; and New Bedford.

XQ. Now, I am not trying to disagree with you. My

recollection of the record is that the Algonquin was completed a few months, or maybe a year, after the Tennessee Gas transmission line. Is that your recollection of that?

A. Well, my recollection is not very specific. I could have gotten them mixed up.

XQ. I believe, in any event, we can agree that the Algonquin Gas did not come in prior to the Tennessee Gas. Isn't that correct? A. I don't know.

XQ. Now, the BTU content of the gas received in the New England area from both Algonquin and Tennessee is substantially the same, is it not? A. I would assume that it is, yes.

XQ. And as I recall, from the direct testimony, the rate in the New England area for all gas companies is essentially the same basic rate. Is that right? A. I made no study of the purchase contracts.

XQ. My recollection is, it was testified there was the same rate applicable to New England companies. Is that your understanding of it? [1875] A. I did not testify to it. I think it was covered in other peoples' testimony.

Mr. Vorenberg: You are talking about just Tennessee, or both companies?

Mr. Nowlin: Both companies. I know Tennessee has its own rate, according to testimony. I was thinking Algonquin testimony was Algonquin and Tennessee were essentially the same basic rate. Am I correct in that?

Mr. Vorenberg: I am certainly not the person to testify. I would rather think that Mr. Cahal may not be the person to testify,—

Mr. Nowlin: I don't think it is necessary.

Mr. Vorenberg: —on that point.

By Mr. Nowlin:

XQ. Now, I believe in the course of your direct testimony, Mr. Cahal, you stated one measure of growth could be found in average use per domestic customer.

Is that correct? A. I believe that is correct. The growth, in the average use per domestic customer.

XQ. Therefore, isn't it an important measure of the success of a gas company's operation? Wait.

Therefore, is it an important measure of the success of a gas company's operations, its records of its sales per customer? [1876] A. I think that the records of its sales per customer in relationship to its marketing opportunity, has to be considered in evaluating the sales success of the company.

[1877] By Mr. Nowlin:

XQ. If you were comparing gas companies in the same geographical area, wouldn't that be a good test of the success of operations? A. If you took into consideration the type of area, competition, population changes, growth, new housing construction. All of these factors also influence how well the gas company can do. The gas company is not selling in a vacuum. It is selling up against competition. It is selling up against the limitations of the type of housing, the income levels—all of these things are mixed together to provide what might be loosely termed the market potential, and I think that the measurement of a gas company's sales success has to be viewed against what potential it had and how well it capitalized on that potential.

XQ. Sticking for the moment to the State of Massachusetts, which is a comparatively small area in relation to some of the other states, wouldn't it be fair to say that the eight NEES gas companies and the other unaffiliated gas companies are confronted with almost the same problems and the same assumptions? A. No, sir, not in this past decade, which has been pretty well documented by the census figures that have come out of the startling changes that have been taking place in people not moving necessarily from Massachusetts to another state, but more the people moving into the suburbs, moving out of the central cities

into fringe areas, the redevelopment or the deterioration of the [1878] core of cities. The gas company is at the mercy because it can't move its franchise area. It is at the mercy of where people are moving. It may try to stimulate growth in its area, but by and large it has to find its market where it is, and if a gas company is serving a town that has no growth, in fact, a losing population, no new housing where it is really a very fine market for appliances and heating equipment, if it is confronted with these changes one could right across the city limits or right across the river can have an entirely different growth picture, not only in terms of total, but in terms of this average that we are talking about.

XQ. Well, now, looking at the non-affiliated gas companies reflected on Respondent's Exhibit No. 90, and the eight gas companies in the NEES System, except perhaps for Boston Gas, wouldn't these individual gas companies in the NEES System that are non-affiliated experience about the same type of transitory problems and difficulties that each one of the others face? A. No, sir, because of the fact that these are relatively small areas. In other words, a company that serves a small urban area that has had this fringe growth, this suburban growth, is in a much better position than a company that is serving an area that is not experiencing any growth, because the growth is reflected in new housing. New housing is reflected in sales, particularly when gas heating is a prime market.

XQ. Do you know of any wide differences that have occurred in [1879] any of the NEES companies area and in the non-affiliated companies area reflected on 90? A. Yes, sir.

XQ. Now, which ones would you pick out as having unusual occurrences? A. Well, take the non-affiliated companies, we find that companies like Haverhill and Lowell,

Springfield, Worcester, Brockton-Taunton, these companies have served areas where the population, particularly in the fringe area has increased more rapidly than any area in the NEES System except Norwood, which is a self-contained small town that has grown very well.

XQ. Did you make any comparison of the per customer gas sale for 1958 of the NEES gas companies with the per customer gas sales for the same year for the independent gas companies in Massachusetts reflected on Respondent's Exhibit No. 90? A. Yes, a comparison of the domestic use per domestic customer.

XQ. The customer gas sales? A. Yes.

XQ. What was the result of that study? A. Well, it showed at that point that there are companies in Massachusetts with higher average use per customer and showed that there are some gas companies in Massachusetts with lower average use per customer than the general NEES area.

XQ. Do you know how the average of the two groups compare? [1880] A. The average of the two groups, I believe that the average of the non-affiliated companies was slightly higher than the NEES companies.

XQ. What do you mean, Mr. Cahal, by slightly higher—ten percent or twenty percent or what? A. I am sorry. Again, I wouldn't be able to answer that without referring to some working papers that I have.

Mr. Nowlin: Mr. Examiner, the staff has prepared some statistical compilations from the records obtained from the Department of Public Utilities of the State of Massachusetts and from information contained in exhibits in the record, which we would like to introduce into evidence, but I would imagine from my experience this morning that counsel for the respondents would like to have a witness on the stand to identify and make a statement as to what these exhibits purported to show.

Mr. Vorenberg: Could we see the exhibits?

Mr. Nowlin: I am going to give them to you.

Hearing Examiner: Do you want to produce the witness now?

Mr. Nowlin: Not unless it is necessary. I was inquiring as to whether or not counsel for the respondent wanted me to produce a witness to produce these exhibits or whether he would accept them without a witness.

Hearing Examiner: Well, they wanted to see what you have there, naturally.

[1881] Mr. Vorenberg: Without having seen them—

Hearing Examiner: All right. Put Mr. Gishman on the stand.

Will you please retire temporarily?

(Witness temporarily excused.)

Whereupon,

SAMUEL GISHMAN

resumed the stand and testified further as follows:

*Direct Examination (Continued)*

By Mr. Nowlin:

Q. Mr. Gishman, do you have before you a set of statistical compilations, the first one of which is entitled: "Eight NEES Gas Companies Statement of Total Domestic Gas Sales and Revenues—year 1958", and the second one bearing the same title except for 1959; the third one entitled "Eight NEES Gas Companies Statement of Total Gas Sales and Revenues for the Year 1958," and the subsequent one bearing the same title for the year 1959? A. Yes.

Q. Were these statistical compilations prepared under your supervision? A. They were.

Q. Do you believe that the information reflected therein is accurate? A. Yes.

[1882] Q. Would you describe what each one of these compilations purport to show and the source of the information reflected thereon? A. Yes, sir. These schedules show, taking the first one, namely, the eight NEES gas companies statement of total domestic gas sales and revenues for the year 1958, this shows for each of the eight NEES gas companies under the first heading "number of domestic customers as of December 31, 1958." The figures in this column were obtained from Respondent's Exhibit 58-A.

In the second column shown under "Domestic Gas Sales — thousand cubic feet," this column shows the number of MCF sold by each of the gas companies to domestic customers in the year 1958, and the figures in that column were obtained from annual returns by each company to the Massachusetts Department of Public Utilities for the year 1958.

The third column, which is headed "MCF Per Customer" is simply an arithmetical computation dividing in each case the MCF by the number of domestic customers.

In the fourth column, which has a general heading "Total Domestic Operating Revenue" under the column headed "Amount", there is shown for each of the gas companies the revenues from domestic gas sales. These figures were taken from Respondent's Exhibit 58-A.

The next column, which is designated "Per Customer" [1883] is again an arithmetical computation obtained by dividing the number of dollars shown by the number of customers shown in the first column, and similarly the last row of figures are arithmetical computations derived from the figures already described.

Hearing Examiner: Now, Mr. Gishman, is that the first sheet in this set of schedules?

The Witness: That is, sir.

Hearing Examiner: Let it be identified as Division's Exhibit 3-A.

(Division's Exhibit 3-A was marked for identification.)

By Mr. Nowlin:

Q. Now, Mr. Gishman, the second page of the statistical compilations is the same identical information for the year 1959, is that correct? A. That is correct.

Hearing Examiner: Let that be identified, the second sheet, as Division's Exhibit 3-B.

(Division's Exhibit 3-B was marked for identification.)

The Witness: There is one observation I would like to make with regard to the second sheet, and that is the source of material which is not the same as on the first sheet. All of our material, all of our basic figures shown on this second [1884] sheet were obtained from the annual returns to the Massachusetts DPU for the year 1959.

Q. Now, turning to the third sheet, which is entitled "Eight NEES Gas companies Statement of Total Gas Sales and Revenues for the Year 1958." Would you explain what this compilation reflects? A. This compilation for the year 1958, as well as the next one for the year 1959, gives the same type of information as is shown on Division's Exhibits 3-A and 3-B for identification, except that they deal with total gas sales for those two years instead of merely domestic gas sales.

Mr. Nowlin: Mr. Examiner, I would like to offer these.

Hearing Examiner: Let the third sheet in this series be identified in this record as Division's Exhibit 3-C and the fourth sheet is Division's Exhibit 3-D.

(Division's Exhibits 3-C and 3-D were marked for identification.)

Mr. Nowlin: I would like to offer these four sheets of

statistical information, marked as Division's Exhibits 3-A, 3-B, 3-C and 3-D, into evidence.

Mr. Vorenberg: We have no objection to this material. We would, of course, reserve the right to check it as to accuracy and the right of cross examination with respect to it at such time as we may have an opportunity to review it. [1885] Hearing Examiner: Very well, subject to the right of check and cross examination, these four sheets are admitted into evidence. I am referring now to Division's Exhibits 3-A, 3-B, 3-C and 3-D.

(Division's Exhibits 3-A, 3-B, 3-C and 3-D were received in evidence.)

By Mr. Nowlin:

Q. Mr. Gishman, do you also have before you a set of statistical compilations consisting of four sheets, the first of which is entitled "Nine Natural Gas Companies in Massachusetts (Included in Respondent's Exhibit 90) Footnote: 1. Statement of total domestic gas sales and revenues for the year 1958"? A. Yes, I do.

Q. Would you describe what this compilation shows and the source of the material? A. Yes. This compilation shows for each of nine independent Massachusetts gas companies included in Respondent's Exhibit No. 90 the total number of customers for the year ended December 31, 1958. Those figures appear in the first column. I will explain the eliminations in a few minutes. Under total gas sales we show the MCF, total MCF gas sales by each one of these gas companies, and the third column, that is Column C, as is shown here is simply Column B divided by Column A.

Under total revenue from the sales of gas in Column D we showed a dollar amount. In Column E we show the amount per [1886] customer, which is derived by dividing Column D by Column A, and in the last column we show the revenue per MCF, which is derived by dividing Column D by Column B.

Q. Mr. Gishman, before you start on this, I am going to ask do you have a second sheet there that reflects the same information for the year 1959? A. I do.

Q. Now, are the explanatory statements which you are about to give applicable to both of these two statistical tables? A. They are, yes.

Q. Will you proceed? A. Now, as is shown on the bottom of the first sheet that I have been testifying about, we have eliminated from those companies shown in Respondent's Exhibit No. 90 Boston Gas Company and Buzzards Bay Gas Company, for the following reasons: Boston Gas did not convert to straight natural gas until 1960, and therefore we felt it was not on a comparable basis as are the gas companies that were included in that nine companies group.

Q. Pardon me, Mr. Gishman. I think you included Buzzards Bay with Boston Gas, is that right? Buzzards Bay is reflected in the compilation. A. Both Boston Gas and Buzzards Bay are reflected in the compilation of the nine companies, and from those nine company [1887] totals we eliminated, as is shown here, Boston Gas and Buzzards Bay. Now, I have explained the reason why we eliminated Boston Gas.

The reason why Buzzards Bay was eliminated is that its per customer figures are not comparable with these other per customer figures because of the abnormally small number of customers reported at the end of the year by Buzzards Bay in relation to the number of customers served during the year. This appears to have been due to the seasonal nature of the Buzzards Bay business, in which, as I recall the individual figures, Buzzards Bay would show around the middle of the year a considerably higher number of customers served in the middle of the year than they reported as of December 31, 1958, and we felt that that destroyed the comparability.

Now, those are the reasons why we eliminated Boston Gas and Buzzards Bay, and we bring our totals down now to a seven company basis.

Now, there were three other companies included in Respondent's Exhibit 90, which were excluded from this compilation. These exclusions were Cambridge Gas, New Bedford Gas, and Fitchburg Gas, and the reason they were excluded from this compilation was because all three of them have joint operations with affiliated electric companies, and we wanted to make this independent company comparison as nearly as possible straight gas operations for purposes of comparison.

[1888] Q. Now, do you also have before you two other statistical compilations, the first of which is entitled "Nine Natural Gas Companies of Massachusetts (Included in Respondent's Exhibit 90) Footnote: 1. Statement of Total Sales and Revenues for the Year 1958," and a second sheet showing the same information for the year 1959? A. You slightly misstated in your description of the title. This is a statement of total domestic gas sales and revenues.

Q. You have identified those. It is the next two sheets.  
Hearing Examiner: The third and fourth sheets.

By Mr. Nowlin:

Q. The third and fourth sheets. A. The two sheets from which I have just testified refer to total sales and revenues for the years 1958 and 1959 of those nine companies. I have already finished testifying on total gas sales.

Q. We have got them reversed here. Will you proceed to describe the other two compilations that you have? A. These next two sheets are the same sort of compilations as shown on the first two, except that the figures shown in these two sheets are confined to domestic gas sales and revenues as distinguished from total gas sales

and revenues testified to on the first two sheets. The source of the data and the reasons for the eliminations are the same as I have just indicated with respect to the first two sheets.

[1889] Mr. Nowlin: Off the record.

(Discussion off the record)

By Mr. Nowlin:

Q. Now, the next two pages "The Nine Gas Companies Total Domestic Sales," the first one is 4-C and 1959 is 4-D? A. Yes.

Mr. Nowlin: Mr. Examiner, I would like to offer into evidence as Division's Exhibits 4-A, B, C and D the four statistical compilations which Mr. Gishman has just described.

Hearing Examiner: Let those four sheets come in under the exhibit numbers which the witness identified; that is, Division's Exhibits 4-A, 4-B, 4-C and 4-D.

(Division's Exhibits 4-A, 4-B, 4-C and 4-D were received in evidence.)

Mr. Vorenberg: We have no objection to these exhibits subject to what I said about 3-A, 3-B, 3-C and 3-D.

Hearing Examiner: Yes. These are received subject to the right of correction and possible cross examination if you desire.

Whereupon,

ROBERT ROSS CABAL, JR.

resumed the stand and testified further as follows:

*Cross Examination (Continued)*

By Mr. Nowlin:

XQ. Turning your attention to the sale of gas appliances [1890] by the NEES gas companies, are there any instances in which gas and electric appliances are jointly displayed or sold in the same space? A. There are instances where

electric and gas appliances are sold in the same building. There are twenty-six places where these appliances are sold by the NEES gas companies, and of these in 17 they are sold in stores where there are also—in buildings where there are also electric appliances sold. However, in these buildings these appliances are separate. They are not intermingled. This division depends upon the layout.

XQ. In other words, there are no places where on one single shelf, for example, the appliances are displayed together? A. No.

XQ. And there is no single area where they are both displayed—I mean by that, some particular area where they are both displayed and sold? A. That is correct.

XQ. In general, where they are displayed on one floor there is a separation between the sales and display areas? A. That is right.

XQ. Are there any instances in the NEES System where company salesmen promote and sell both electric and gas appliances? A. Well, referring to the status as it existed in this [1891] period, at that time in Lynn Gas and Electric Company, there were combination salesmen because that was a combination company, but otherwise in the other companies there was no joint selling of appliances.

XQ. Are there any part-time salesmen engaged in the sale of electric and gas appliances? A. Part-time. You mean part-time between electric and part-time between gas?

XQ. No. Really what I meant was, you have your full-time salesmen. Do you have any salesmen coming in maybe on the weekends and devote only a part of their time to sales? A. Not salesmen.

XQ. In joint sales locations who selects the particular space assigned to the gas and to the electric? A. I don't know who made the final determination as to which side or which area would be electric or gas.

XQ. Do you know what factors are taken into account in

assigning such space? A. Well, the major factor is to try as nearly as possible to give each area equal space considerations in terms of size, for example, and in terms of location. By that I mean not to put the gas or the electric out of the way, so that the normal flow of traffic will not reach that area.

XQ. In other words, you find no instances of where the electric was stretched across the front part of the building and [1892] the gas in the back part of the building? A. No, I don't recall any instances of that.

XQ. Well, insofar as your appraisal is concerned, did you find any indication of discrimination as between the gas and electric insofar as the display of the facilities was concerned? A. No discrimination. I think that both sides were trying their best to be in a good position, and consequently they were highly competitive in this, but it was not a matter of discrimination.

XQ. Do you know of any instances or did you run across any instances of where a gas salesman may route customers to an electric salesman because of the difference in commissions that were being obtained? A. I am certain that wouldn't happen. This commission is this salesman's bread and butter, and he is certainly going to protect his own interest in getting whatever commission he can get.

XQ. Did you make any personal review or observation of the sales activities or conduct of any particular salesman toward a prospective appliance customer? A. Do you mean by that, did I participate in a sales situation where a salesman was actually selling the customer?

XQ. No. Let me give you this example: Suppose I enter one of the sales floors where gas and electric appliances are both displayed, I assume there is a center aisle that separates [1893] the two displays. How is a prospective customer assigned to the electric or to the gas? In other words, who makes the assignment? Who determines which

he should see first? A. Well, I would say that probably in most cases that the customer makes the assignment. The customer goes to the kind of appliance that she is particularly interested in at the time. As far as assigning them is concerned, there is no one person that has this as their job function to steer the customer one way or the other.

XQ. In other words, you observed no instances in which there was a hostess or a so-called floor walker that would meet people at the door and route them to one department or the other? A. No, except that if there was a salesman on the floor I am sure he would have been alert to try to attract the customer to his particular line of merchandise. However, he was certainly not assigning them. He was just doing a sales job the best he knew how.

XQ. Did you make any observation of the sales techniques of either the electric or gas appliance salesmen in the course of your study? A. I did not participate. This goes back to this other point. I did not participate in a selling situation where I could actually listen and hear the salesmen. By talking to salesmen I got the gist of their techniques and their methods.

[1894] XQ. Well, how could you formulate any opinion as to whether or not the gas and electric were aggressively promoting their sale of appliances without making some observations of their activities? A. Well, there are several criteria that one can use in this to evaluate it that I use. One of them is the kind of appliances that they were promoting. For example, the gas company promoted every gas use it could find that is generally available on the market. The electric companies were also promoting all electrical uses even though several of these are in direct competition with one another. Another criteria is the nature of incentive. In other words, the fact that these salesmen, the domestic appliance salesmen, derive a good portion

of their annual earnings from incentives rather than from a base salary is an indication that the company was interested in them gaining substantial sales volume.

Another criterion is the amount and type of what we might call mass promotion or advertising. The fact that these gas companies did advertise where feasible, did advertise very pointedly the benefits of gas—and this is another evidence to me that they were anxious to get the business and were aggressive about it. The whole merchandising program because of the use of incentives not only to the salesmen but also certain allowances to customers for putting in certain gas appliances is by its very nature a very aggressive operation.

[1895] These salesmen in connection with the store, we should recognize that these salesmen by and large are not store salesmen. They use this store as a place to bring customers and to demonstrate appliances. They also are given a certain—in some cases—given a certain turn on the floor just to even out the opportunity, but these salesmen spend a great share of their time out in the field calling on customers and to sell these appliances and other utilization equipment.

[1896] XQ. Did you make any study of the volume of sales of appliances by the Electric Department and by the Gas Department, for example, whether they had it in one combined company, on one floor, to determine which one was accomplishing the greater volume of sales? A. I did not because the electric company is in position of having a better opportunity to sell appliances through independent appliance dealers. Therefore, they, in their merchandising operations, are just as interested in creating appliance sales through dealers as in the direct merchandising of appliances. This is not an opportunity that is equally available to gas and therefore the gas company is more interested in developing its merchandising volume.

XQ. Did you make a comparison of the income or the volume of sales, rather, of any particular electric appliance salesman with the volume of sales by any gas appliance salesman? A. Yes. I reviewed the sales accomplishments of various salesmen in terms of their production of sales over a period of time.

XQ. Did you find any indication of a greater success on the part of electric salesmen than gas salesmen or vice versa? A. Not generally. When you get a group of salesmen, you are getting a wide range of productivity and it is awfully [1897] difficult to compare one salesman against another because this is individual productivity more than it is circumstances of his job. But there is no major difference. Both types of salesmen are on some form of commission basis and therefore they are interested in producing a volume which will give them something above their base salary.

XQ. Do you know which one of the gas companies has the largest total volume of gas appliance sales? A. I believe it is Mystic Valley, because it is the largest company.

XQ. I guess I should have added to that, on a per customer basis. A. The appliance sales volume per customer, the largest one is Norwood.

XQ. Well, now, Norwood doesn't have a joint arrangement for the display and sale of electric and gas appliances, does it? A. That is correct.

XQ. Now, does Mystic Valley have a joint arrangement for the sale of electric and gas appliances? A. Yes, they have both.

XQ. Is that on the same floor? A. Yes. In six of their offices it is on the same floor and five it is a straight gas floor.

XQ. Which company has the lowest sales per customer? [1898] A. Lynn Gas Company.

XQ. Do you mean the Lynn Gas Department or the Lynn

Gas & Electric Company? A. This is the gas appliance sales for the Lynn Gas and Electric Company.

XQ. That was the lowest of the eight gas companies?  
A. That is right.

XQ. Are all of the sales of Lynn made on a joint display and promotion basis with electric? A. They were perhaps a little less distinct in the sales area, but generally speaking they were separate.

XQ. Does the Gas Department of Lynn have a separate gas appliance display anywhere in its territory? A. Yes.

XQ. At how many places, do you know? A. Well, they have the two stores. One of them is in the main office building, which is a combination, joint, and the other one is not. I mean the one other location is a gas store.

XQ. Straight gas appliance store? A. Yes.

XQ. Do you know whether the bulk of the sales take place in Lynn, whether it is on the combination display store or the separate gas sales floor? A. I don't know the figures, but the store in the Lynn [1899] main headquarters is much bigger and in a bigger center of population. I would assume that most of the sales take place there. But again we must realize that these stores, actually most of the sales or a greater per cent of the sales are occurring out in the customer's premises. This is door to door selling and whether it is shipped out of this particular store room or not is significant as to what kind of selling takes place. The incident of selling on the floor occurs, but it is the bulk of the salesmen that are out in the field and are producing out there.

May I qualify this by saying there are degrees of competitiveness, but the principal competitors are the gas and electric range, the gas and electric water heater, the gas and electric clothes dryer, the gas and electric incinerator, the gas and electric refrigerator, the gas and electric air conditioner, and the gas and electric house heating system.

XQ. Well, has the development in the NEES system with respect to household heating by electricity reached the point that it is competitive with the house heating by gas? A. Competitive in what terms?

XQ. Either cost, annual cost or initial cost. A. From a cost standpoint, it is difficult to pin this down because of various ways of looking at the cost, but from a cost standpoint electricity is not directly [1900] competitive with gas. It is low enough to be in a direct competitive area for those people who want it. From a marketing standpoint, the NEES electric house heating promotion, I think, would have to be classified as still in the pioneering development stage. In other words, the number of gas heating to electric heating is overwhelming, but they are promoting it and apparently in time this will become more competitive.

XQ. Mr. Cabal, do you know whether or not the NEES system has put in promotional electric rates for house heating? A. Yes, sir, they have.

XQ. Do you know when that promotional rate was put into effect? A. About a year ago.

XQ. Has there been any change in that promotion rate; that is, decrease or increase, since it was originally put into play? A. I don't believe so.

XQ. Do you know what success they are having in the field of promoting house heating by this new electric development rate? A. One indication of their success is that they are over quota, their estimate of how many house heating installations they would install up to about this point. They are having better success than they had estimated or hoped [1901] for.

XQ. When you were talking about installation awhile ago, I assumed that you meant the installation of electric heating for the entire house rather than portions. A. Yes.

XQ. In other words, that would be the installations, as I understand it, of baseboard house heating for the entire

house; is that correct? A. That is right. As a matter of fact, I think the rate provides that electric is the only source of heat in the house.

XQ. Well, now, for the past several years have the electric companies been selling electrical heating appliances that could be plugged in and heat individual rooms or areas of the house or building? A. You mean the NEES Electric companies?

XQ. Yes. A. Yes, they have sold what might be called a portable electric heater.

XQ. I think those are sometimes referred to as space heaters. A. They may be. This terminology in heating gets awfully mixed up, I mean from one area to another. I guess you could call it a space heater.

XQ. Now, with respect to the installation of this new [1902] house heating by electricity, do you know how the new installations of the strict territories served only by electricity compare with the installations installed in areas served by gas and electric? A. No, I don't. I don't know the specific figures on that.

XQ. Now, at pages 47 to 48 you stated you did not observe any difference in the promotion of gas sales in areas where the NEES Gas Company was competing with an electric company as compared to areas where NEES did not serve electricity. What was the basis of your determination? A. The basis of my determination on the sales progress of the NEES gas companies was more or less uniform. In terms of, let's call it, customer coverage, the assignment of personnel to territories, the use of advertising media, the allowances and incentives that were offered to customers or builders for certain types of installations and these were uniformly available and the coverage was basically the same in every territory. The salesman in a combination area was after his commission just as much as the salesman in a straight gas area.

XQ. Assuming the promotional efforts to be the same, did you find that the results achieved were the same? A. Well, within the framework of the opportunities to sell equipment, the market potential, if you will, I would [1903] say there is no significant difference.

XQ. Isn't it a fact that Norwood had a better per customer domestic sales result than any other seven associated gas companies? A. Norwood did because Norwood was fortunate in two respects, particularly as I pointed out in these population figures. Norwood has had a very nice growth populationwise, new houses. Norwood is also in a good competitive position because the competing electric operation there is a municipal, which is not as aggressive as the other gas companies face from NEES and other electric companies in their areas.

XQ. Does the Municipal Electric Company engage in the sale of electrical appliances? A. I don't know whether they engage in the direct sale of electrical appliances or not. Their promotional effort is limited.

XQ. At page 1254 of the transcript it is indicated that the percent of saturation for house heating for NEES gas companies was 20 per cent. I don't recall if that was your testimony or someone else's. A. Yes, that was 1254.

XQ. Does that sound familiar to you? A. Yes, sir.

XQ. How does this compare with the percent of saturation of house heating for the independent gas companies [1904] reflected on Respondent's Exhibit No. 90?? A. Well, in order to evaluate the comparison here, we have to have a definition of house heating. I mentioned awhile ago that the terminology in house heating is quite irregular. The NEES gas companies consider only house heating customers those that heat their house with gas. Some companies include in their house heating figures any customer that uses gas for heating, whether or not this is their only source of heating or not. Consequently when you examine

other saturation figures as reported by these other companies, it is difficult to get a common basis of comparison. I would say generally that, according to reports, that the NEES companies have some areas where the house heating saturation figure is higher than average and they have some areas where it is lower than average.

XQ. Do you know what the percent of saturation is for each of the eight NEES gas companies? A. Yes.

XQ. Would you supply that for the record? A. Central Massachusetts has a 30 per cent saturation. Lawrence has a 34 per cent saturation. Lynn has a 16 per cent saturation. Mystic Valley has a 15 per cent saturation. Northampton has a 23 per cent saturation. North Shore, 15; Norwood, 26; Wachusett, 17.

XQ. How did these compare with the per cent of saturation [1905] of the independent gas companies of Massachusetts reflected on Respondent's Exhibit 90? A. As I indicated, there are some that are higher and some that are lower and actually because of this inclusion of such things as kitchen heaters in the saturation figures, these companies don't break it down so that, let's say, that in comparative figures NEES may be penalized because NEES has a fairly specific limitation on what they consider to be a house heating customer.

XQ. Don't any of the independent gas companies report their house heating figures on the same basis as the NEES companies? A. Well, I presume they do. I did not make an analysis of their reporting. I had figures available to me. In some cases it specifically points out that these figures include these kitchen heaters. In others there is no indication. It perhaps would be a little bit presumptuous to assume what these other companies are reporting, although their figures look comparable to NEES on this unspecified basis.

XQ. Will you have available the percent of saturation of the independent gas companies reflected on Respondent's Exhibit No. 90? A. I have some of them.

XQ. Would you mind reading what you have into the record? A. All right. I have two sources. Therefore these [1906] figures are more or less a composite of these, but, for example, for Berkshire I have a figure of 22 per cent; for Boston, 8; for Brockton-Taunton, 21; for Cambridge —well, the two figures I have are so far apart, one is 40 and one 19. This is illustrative of the problem you encounter when you try to pin these figures down. Springfield, 23 per cent and Worcester, again 40 per cent on one basis and 19 per cent on another basis.

Mr. Vorenberg: Are those for the year 1958?

The Witness: Yes.

By Mr. Nowlin:

XQ. Don't all of these gas companies in Massachusetts have to make a report to the State Public Utility Department up there? A. I don't know. I would imagine if they had a special house heating rate probably they would have to report the number of customers on that particular rate, but I don't know what the requirements are as to what they report.

XQ. Upon the basis of the annual returns filed with the Massachusetts Department of Public Utilities, we have noticed that Norwood's net revenue in 1958 from merchandising and jobbing amounts to \$104,980. This computes out at \$23.38 per customer. The same computation is made by the staff for other NEES gas companies and shows that this per customer figure for Norwood is by far the largest of the eight companies. In [1907] this connection, our computation shows the following: Central Massachusetts, \$14.86; Lawrence, \$16.08; Lynn Gas Department, \$10.20; Mystic, \$15.57; Northampton, \$14.46; North Shore, \$13.30; Wauchesetts, \$16.01.

Mr. Vorenberg: Mr. Hearing Examiner, Mr. Nowlin testifying to this on the basis of his own examination?

Mr. Nowlin: I am laying the groundwork or a question.

Mr. Vorenberg: As I understand it, is there something that is already in the record now?

Mr. Nowlin: I am giving you the source of it. It came from the reports you made to the Department of Public Utilities of the State of Massachusetts.

Mr. Vorenberg: Sitting here at the court table, we have no way of checking that. I am not clear with what status this is going into the record.

Mr. Nowlin: I will ask the question submitted to check. The staff took it off the reports when they were up in Boston. I assume the reports are accurate and if they made an error in taking them off the report you can let me know.

Hearing Examiner: On check, you can strike it.

Mr. Vorenberg: Also to cross examine the basis of it as it relates to relevancy, Your Honor. This is as [1908] important as anything else. To whom shall we address questions in that respect, Mr. Nowlin or Mr. Gishman?

Mr. Nowlin: I can do it the other way; ask you to supply the information from the reports, that.

Hearing Examiner: Well, how much longer are you going to go?

Mr. Nowlin: I have one or two more questions.

Mr. Vorenberg: We are going to accept it on that basis.

Hearing Examiner: That I suggested moment ago?

Mr. Vorenberg: Yes. I suppose that to the extent we have questions as to its relevancy, we can

Mr. Gishman in connection with the other cross examination. We are merely willing to accept it on that basis.

Hearing Examiner: Very well. Proceed now.

Mr. Nowlin: Maybe the thing for me to do is ask the witness for the figures then. I was trying to expedite the thing by supplying them. In other words, this is an average of \$14.49 for these gas companies. How do you explain the fact that Norwood, whose service area is non-competitive with any affiliated electric company, is doing the best relative job in the merchandising of appliances in the NEES system?

The Witness: I think that the answer that I gave awhile ago to the Norwood situation is equally applicable here, [1909] that you have a nice compact sales area that has been growing very well. You have got new houses being built there in good proportion to the existing houses. You have got a lack of any kind of competition, and the factor that we cannot measure into this is the fact that I would imagine that the Norwood operation being in the type of town it is may have a better opportunity to supply a major share of the appliances, gas appliances sold in that area. There are dealers selling appliances too, and they are getting a certain share of the market which is good.

By Mr. Nowlin:

XQ. Do you know whether or not the cost of gas to Norwood is any greater than it is to the other eight gas companies? A. No, I don't know anything about the cost of gas.

XQ. Do you know whether or not, Mr. Cabal, any of the other NEES companies operate in territories which are served with electric by municipal systems? A. There are, I believe, some municipal operations in areas, but these are only a small part of the total service area of the company and it doesn't have this total effect that you get in Norwood.

XQ. Which of the other eight NEES companies can you name that are served or that serve gas in areas that are supplied with electric by municipal systems? A. I believe that there are some municipal opérations [1910] in the Lynn area and in the North Shore area, but I am not positive.

XQ. Mr. Cabal, the information that we have here indicates that Peabody is served with gas by North Shore and it is served with electric by a municipally owned system. Do you recall that? Is that correct? A. I believe that is the case, yes.

XQ. Assuming that to be so, do you know what the appliance sales record of North Shore and Peabody is? A. Peabody in comparison with the rest of North Shore?

XQ. No, just what is its sales record in Peabody alone? A. No, sir, I don't.

XQ. Do you know how the gas appliance sales in Peabody would compare with those in Norwood on a per customer basis? A. No, sir, I don't.

XQ. Could you obtain and supply for the record the amount of dollar sales for merchandising in Peabody by North Shore?

Mr. Vorenberg: I would say with respect to this request that was made with respect to another request for additional information. If Mr. Nowlin wants to raise that question with us, we will see if it is even available. It may not be possible to ascertain it, but we do not believe it is orderly to present that type of a request to one of the Ebasco witnesses.

Mr. Nowlin: I take exception. This man is testifying [1911] on the merchandising sales in the area and he is supposed to have acquainted himself with these facts. He is the man I am addressing my questions to and if co-counsel wants to supply the information, that is well and good, but

I don't like the inference that this isn't an orderly examination.

Hearing Examiner: Well, without getting into a hassel over whether it is appropriate and proper or not, we will see what the company supplies. Does that satisfy you?

Mr. Nowlin: As long as we get the information.

Hearing Examiner: Are you through?

Mr. Nowlin: That is all we have for the present, Mr. Examiner.

Hearing Examiner: The witness may retire from the stand and we will recess at this point until 9:30 tomorrow morning.

(Whereupon, at 4:55 o'clock p.m., the hearing recessed, to reconvene at 9:30 o'clock a.m., Friday, April 7, 1961.)

#### PROCEEDINGS

[1913] Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Hearing Examiner, at the very end of yesterday's session Mr. Nowlin asked if we could make available the appliance sales figures for the town of Peabody, which is a part of North Shore gas service area. Now I have talked to the representatives of the gas division and they have informed me that the appliance sales figures are not broken down by a town basis. I told Mr. Nowlin and he and I agreed that I should just state for the record that that figure is not available.

Hearing Examiner: Thank you, sir.

Mr. Nowlin: I would like to call Mr. Simes.

Hearing Examiner: He has been sworn.

#### JAMES F. SIMES

was recalled as a witness and, having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, please, sir.

The Witness: James F. Simes—S-i-m-e-s.

Hearing Examiner: Thank you, sir.

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Simes, would you briefly state the scope of your activities in connection with the Ebaseo study? A. Very well sir. I was responsible for the study of the [1914] service company, the general areas of what we call the operating departments, distribution, utilization and so on, the space requirements, in the event of severance, professional services, the general area of transportation costs and several miscellaneous items.

I am sorry, I forgot one very important area, the executive and administrative staff.

XQ. Did you participate in the initial conferences between the Ebasco officials and NEES officials regarding the selection of Ebasco to make the study? A. No, sir, I did not.

XQ. What instructions were given to you as a guide for the making of your phase of the study? A. Well, when Mr. Quig first assigned me to this job my instructions, in general, were to—well, let me say specifically the first assignment was the study of the service company and then in general to review the work that had been done by the Ebasco team in other areas that I mentioned.

XQ. Were you instructed to make an independent evaluation of the NEES system as it existed at that time to determine what economies or curtailments would be effected or should be effected; that is, prior to undertaking your actual study? A. No, sir. If that had been done, it had already been done by the time I came on the scene in most of the areas for which I was responsible.

[1915] XQ. In other words, as a preliminary to undertaking your study you didn't make any independent evaluation

of the conditions as they existed to determine whether or not there should be any curtailments or supplements? A. Well, that is a little—Let me try to bring it into focus. In going around to all of the properties, specifically the gas properties, of the New England Electric System, I had to, by the very nature of my background and experience, formulate the opinions as to how they were operated, whether they were being operated efficiently or not.

XQ. Take, for example, the executive and administrative departments. Did you make any specific study of the present executive and administrative staff to determine whether or not they were properly set up or whether they needed more personnel or less personnel as a preliminary to undertaking your actual studies? A. Yes, to the extent of my detailed studies of the service company, which, of course, at that time involved various officials of the service company in NEES and my examination of the Gas Division. This was the executive group of the gas companies.

XQ. I don't know whether I am getting myself over to you. What I am trying to ascertain, Mr. Simes, is before you actually sat down and made your study for Ebasco purposes, did you make any studies of any of the departments of [1916] the NEES system to determine whether they were inefficiently or efficiently being operated or whether they needed supplements in the staff or in different facilities? A. Well, you start at the beginning in any study, Mr. Nowlin. You have to first determine what is there. That is your starting point before you go to making the specific study that I was sent up there for. That I think is rather obvious. You can't do it any other way, except to study what is there.

XQ. That ties in with your actual study for Ebasco? A. Yes, sir.

XQ. I am trying to ascertain if you made any preliminary independent studies of the existing situation to determine

whether or not it was properly set up before you undertook to make the Ebaseo study. A. I don't quite follow you.

Hearing Examiner: Are you asking him if he had been in on this system before Ebasco came into the picture? Is that what you are asking?

Mr. Nowlin: No, sir, Mr. Examiner. It seems to me very clear that there are two facets of this study or should have been two facets. One of them is to make an actual study and not just a general review and a visit to the properties, but to make an actual study of the present personnel and operations and so forth to determine whether [1917] or not they are efficiently operated before you accept actual figures as a basis for making a subsequent performance study.

The Witness: Well, I thought I had answered that.

Hearing Examiner: Well, did you do that?

The Witness: We will take it over again, just in case there was a misunderstanding.

Hearing Examiner: All right.

The Witness: Here is a very good example: In the case of the production and distribution and utilization groups, what we call the operating departments, there I actually went out into the field, went through every one of the plants, discussed right down the line to the foreman the work that was being done by distribution crews, how they were manning these crews, so far as the utilization work which was concerned, which in my upbringing we have always called primarily customer servicemen, what kind of work they do, what sort of servicing they do. As I say, maybe I went over it too fast, but this is a natural thing. You have to do this to get started: what are they doing now and are they manned properly and so on, yes.

Mr. Nowlin: I am still trying to break this down into two categories. It seems to me like before you are going to make a study of what the requirements of this system

should be, you first ought to determine whether or not it is properly operated today.

[1918] The Witness: Yes.

By Mr. Nowlin:

XQ. And it seems to me like that would necessarily require a preliminary survey and an actual study of certain areas in order to reach a determination. A. Well, did my last answer—

XQ. Having reached that determination, I would assume you would start from there and begin to make your performance study. I am trying to ascertain whether or not you did make this actual study independent of anybody else to see how this system was being operated and whether there should be any adjustments made before you undertook your actual study for Ebasco. Did you make such an independent study on your own behalf?

Mr. Vorenberg: Mr. Nowlin, you twice now said "before you understood this study for Ebasco." You understand that anything this witness did he did for Ebaseo. He was working for Ebaseo.

Mr. Nowlin: Certainly, but I assume he would fortify himself—

Hearing Examiner: Why not ask the witness what he did first when he went to work on this report of Ebasco.

Mr. Nowlin: Mr. Examiner, that is pretty well scattered over the direct testimony. I don't see how there could possibly be any confusion about the question I am asking. [1919] I have tried to explain exactly what I am getting at and I don't know why it should be misunderstood.

Mr. Vorenberg: If I may suggest what seems to be the confusion, Mr. Nowlin, is that you seem to be trying to force the roll of Mr. Simes into a specific framework of first a preliminary study and then a subsequent study.

Hearing Examiner: Well, let me ask this question and then you gentlemen pick it up there: After you were as-

signed to take part in this work of evaluation of Ebaseco, what did you do first?

The Witness: My very first thing, sir, was to try to absorb what we call or what I call a feel for the property. I went around to every—before I put a pencil on paper, I went around to every single property of the gas company, their production plants, discussed with their production superintendents, talked to them, saw what kind of equipment they had. In other words, this was a field survey. This was the first step.

Does that answer the question?

Mr. Nowlin: No, not at all. Let me try again.

By Mr. Nowlin:

XQ. Let's take the executive and administrative staff. Let's assume, for example, that they had three presidents and you only needed one. Did you, before you started making a study, determine whether they needed three presidents or one [1920] president or four assistant treasurers instead of one assistant treasurer to see whether the system was properly set up before you started making your study? A. Again I think I answered that before. I will try once more.

XQ. I am not talking in connection with your Ebaseco study. Did you go out and just evaluate this system on your own? A. This confuses me.

Mr. Vorenberg: What do you mean by the Ebaseco study?

Mr. Nowlin: That is 58-A and B.

The Witness: The report?

Mr. Nowlin: It is called the "Gas Severance Study." I don't know why the word "study" should be confusing when you used it yourself in this report.

Mr. Vorenberg: It is not the report itself; it is the Ebaseco study. I am sure you understand Mr. Simes and the other Ebaseco people were employed by NEES to do a single overall job and your repeated reference to what they did

before they started the Ebasco study is certainly confusing to me and I don't see how it can help but be confusing to the witness.

Mr. Nowlin: I don't know how it can possibly be confusing in the questions and examples I have given. It seems to me before anybody could come up with any kind of an estimate, [1921] he either accepts the actual figures and the actual personnel that exists, which the records indicate that they had here, or—

Mr. Vorenberg: This witness has testified—

Mr. Nowlin: Let me finish. The records indicate that Ebasco accepted the actual figures or the actual cost, the actual personnel, that they didn't make a single adjustment in the existing situation.

Now wait a minute. When they proceed to make their performance study, they use the actual figures and the increased costs that are reflected in this Ebasco report as against the actual figures and I am trying to ascertain whether or not he checked those actual figures to determine whether or not there are any understaffing or overstaffing or excess in costs.

Hearing Examiner: You didn't ask him that question. Why not ask him that question. Ask if he checked those figures.

Mr. Nowlin: I asked that three times.

Hearing Examiner: Well, it has been in language that I didn't catch.

Mr. Nowlin: Is it clear to you now, Mr. Simes, what I am trying to ascertain?

The Witness: Yes, sir, and I think in general I have been answering that question. Again, as I stated before, I did, so far as the report is concerned, I examined the existing situation in the areas for which I was responsible and [1922] I will state that so far as the manning is con-

cerned, I believe that it was adequate to do the job for which the staff was manned.

By Mr. Nowlin:

XQ. Did you actually make any specific study to determine that? A. Well, when you say a specific study, again all I can say is that in going through the gas division, individual by individual, with the people themselves, that to my mind is an analysis of the staffing.

XQ. When did you decide for yourself that the actual operations of the system needed no adjustment, that everything was hunky-dory—in the course of your Ebasco study or before you undertook your Ebasco study? A. Well, the Ebasco study was in progress from the beginning. This is a continuing thing. This is a continuing evaluation. This is a continuing gathering of data and applying judgments. There is no point in time, Mr. Nowlin, except our deadline.

XQ. Do you know of any instances where you found that the NEES system was understaffed or overstuffed? A. In my knowledge of a gas operating company and my experience, I would say that this is a well operated company. Now there are going to be variances from company to company, but for the functions that had to be performed, this was [1923] staffed adequately and properly.

XQ. And is it a fact that you accepted the actual personnel and the cost figures for 1958 as the basis for projecting your report? A. No, no.

XQ. Did you make any adjustments? A. In the projecting of the report, we set out to staff and man an organization either on the independent basis or on the combined basis, but we set out to man a gas company that had to perform certain known functions. We know the things that a gas company has to do.

XQ. And as a basis for those projections, you obtained the actual data, actual operating expenses and personnel and so forth from the NEES officials? A. Not as a basis,

no, sir. As I said before, you always start out from the actual system in any job that you do. You start out from what is it today and where are we going from here in a projection.

XQ. If this was an independent study, then, Mr. Simes, why did you ask for any data from the NEES officials?  
A. Mr. Nowlin, in any job that you do you have got to get the information.

XQ. Did you make your field trip and study it and so forth and familiarize yourself with the system? Can't you, as a bunch of experts, sit down and project the pro forma staff [1924] and cost for the NEES gas companies? A. We did this on the pro forma.

XQ. Why did you ask for all of this material and gather all this material and talk to all of the NEES officials.  
A. Why? What is your basis for comparison if you don't get the actual figures? I am sorry, I didn't mean to ask you, but you need to state it affirmatively. You need a beginning point to make a comparison.

XQ. Couldn't you go out here and make a study of a given utility company to determine how it should be staffed and what the cost would be and so forth without having a single paper submitted to you by the utility company?  
A. No, sir.

XQ. You couldn't make an independent set up yourself?  
A. No, sir.

XQ. Now, let me ask you one other question along this line: Were you instructed to make any study or evaluation to determine the advantages and benefits that might accrue to the gas company as a group in the event of severance?  
A. A study of it—May I have that question?

(Question read by reporter.)

The Witness: Mr. Nowlin, the instructions, as I understood them, were to establish a pro forma organization,—

Hearing Examiner: Whose instructions were they, Ebasco or NEES.

[1925] The Witness: My instructions from Mr. Quig. He was the general supervisor.

Hearing Examiner: Very well.

The Witness: (continuing)—to set up—let's take first the independent situation—to set up a gas company to operate adequately, sufficiently and provide good service to customers. Now, whether or not there would be advantages or disadvantages stems from the organization that you set up. You don't go to see this or to see that; you set up an organization to perform the functions of a gas operating company.

By Mr. Nowlin:

XQ. Do you know whether or not in previous severances of gas and electric, under the Holding Company Act, that there have been benefits derived by the severed gas companies? Are you familiar with any of those things? A. No, sir, I am not.

XQ. You don't know whether or not there have been previous cases of severance, whether or not the gas company has actually benefitted from the severance, rather than having suffered losses? A. I say, again, in my general knowledge of the gas industry and various companies, I can't specify but I would say that there would be both advantages and disadvantages.

XQ. But you did not make any study in this case? A. As I explained before, you set up an organization [1926] to perform the job of operating a gas property.

XQ. Now, I am going back and ask you again did you make any study, assuming the severance was made, did you make any study or give any consideration to the fact that the severed gas companies might obtain advantages from being severed from the NEES system, as well as maybe suffered some losses, which advantages are not reflected

in the estimated loss papers? A. I am afraid I am going to be repeating myself. All I can say is—

Mr. Nowlin: Wait a minute, Mr. Simes. Mr. Examiner, I think this is a question susceptible to a yes or no answer.

Hearing Examiner: I think the witness ought to have some latitude. I don't see how he can answer that myself yes or no.

Mr. Nowlin: Read the question, please.

(Question read by reporter.)

Mr. Nowlin: It seems to me that is subject to saying yes, he made such a study or he didn't and then if he wants to explain it, OK.

Hearing Examiner: Well, now if the witness can answer this question categorically, he has a right to explain or offer any explanation he cares to.

Did you make—Mr. Nowlin has used the words "preliminary study". By that I take it he means did you have any work papers going into these matters in the early stages, [1927] the first stages of the evaluation. Now, can you answer that yes or no?

Is that what you are inquiring about?

Mr. Nowlin: Mr. Examiner, I left that. The question I asked was did he in making his pro forma estimate for Ebasco, did he make any study of the benefits that might accrue to the gas companies after severance and did he give any weight to those advantages in his projection of these estimated losses or economies.

Hearing Examiner: I think the witness ought to be allowed some latitude as to how he answers that question. I will permit you to answer it in your own way.

The Witness: Thank you, sir.

As I stated before, there are advantages and disadvantages to any situation such as this. Mr. Nowlin asked me the question did I examine specifically advantages. My answer to him was that we set up an organization to operate

a gas company. Now in setting up that organization, there are going to be certain advantages and there are going to be certain disadvantages. These all are enumerated in the Ebaseo report.

Mr. Nowlin: Mr. Examiner, the only thing that I have found in this report is purely an estimate of losses that would occur, loss of economies that would occur in the event that the gas companies were severed from the NEES [1928] system. Now the Commission, in several opinions, has pointed out in previous cases that once the gas companies have been severed from the system, there have been advantages from such severance, which offset in part the losses that might be occurred in the severance.

Hearing Examiner: Why not ask this witness if he found in the initial stages of the work advantages to be gained by severance and losses to be gained by severance. Is that what you are asking him? That is the way I assess the line of the examination.

By Mr. Nowlin:

XQ. Mr. Simes, do you know whether or not there are any advantages to the gas companies being severed from the NEES system? A. I can think of none specifically.

XQ. Well, then, your report could not possibly reflect any advantages that might be obtained by the gas companies from being severed?

Mr. Vorenberg: That is not what he said.

Mr. Nowlin: He said he didn't know of any. If he doesn't know of any, how could—

Mr. Vorenberg: You asked him whether in this particular case he found any of these advantages and he said he did not know of any in this case.

Mr. Nowlin: He understands the question. I suggest [1929] he answer it.

Hearing Examiner: Let me ask the witness this question: In his participation in this evaluation work under-

taken by Ebasco, did your investigation reveal any advantages from the severance?

The Witness: Sir, I would like to state it this way: I have been, over the years, familiar and acquainted with a lot of gas companies and I would want to state this, that to my knowledge this company as it exists today under, these gas companies as they exist today, under the New England Electric System, are well operated and are in all instances providing good service for their customers.

Hearing Examiner: Do I understand from what you have testified and what you have just said that you found no advantages in the work that you did on this evaluation study?

The Witness: Mr. Examiner,—

Hearing Examiner: It seems to me that can be answered yes or no and not going off and tell us what some other company and what your experience is; it is what you found in this instance.

The Witness: I would say that I found no particular or specific advantages to severance.

By Mr. Nowlin:

XQ. Did you make any study upon which to base that [1930] conclusion? A. Well, the entire establishment, again, of these separate companies and initially the understanding of how they operate today, this I think you are in the area of judgment, Mr. Nowlin, and of course you can form an opinion.

XQ. Did you make any study of this specific part?  
A. This was a continuing study.

XQ. Will you turn to page 444 of Exhibit 50-A? Under the heading there, "Transportation Costs", I notice in the last sentence there you mention an increase of \$10,000 in transportation expense clearing account. What happens to the \$10,000 increase in the transportation expense clearing account when Mystic becomes a part of the combined opera-

tions? A. You will excuse me, Mr. Nowlin, while I check this.

In the case of Mystic Valley, in going from the independent operation to the combined operation, we actually reduced the number of vehicles required. That \$10,000 that went into transportation expense clearing account becomes \$5,000.

XQ. Where is that reflected in the combined basis?  
A. In the combined report?

XQ. Yes. A. In Exhibit 91, on page 40, it would be, or let me say a part of it would be included in the \$53,400 of distribution of clearing accounts.

[1931] XQ. Do you mean then that the \$5,000 difference reflected on page 40 is due to this item? A. Not that item specifically. There are several items involved.

XQ. Can you tell us what are the components of this \$5,900 figure? A. Well, the \$5,900 figure is the difference between the two columns.

XQ. What makes up the difference? A. The \$53,400 is the sum of stores, clearing, transportation clearing, other minor clearing accounts, less the amounts in those clearing accounts which would be chargeable to other than operating expenses.

XQ. Mr. Simes, could you identify the items through your report which are responsible for this \$5,900 figure? You just mentioned this \$10,000 figure was apparently among the items. Could you identify other items which formed the basis for the \$5,900 figure? A. As I said before, the \$5,900 is a difference between column one and column two. That is obvious. The \$53,400, as I explained before, is the summation of many clearing account amounts, adjusted for what those clearing account amounts would be chargeable to non-operating expense accounts and this balance of \$53,400 is chargeable to operating expense accounts.

XQ. Is there any place in the reports that reflect the [1932] particular items that make up this \$53,400 item? A. Not in the report itself, no, sir.

XQ. Can you tell us what savings will accrue to Mystic on a combined basis that would make up that, would effect or reduce this \$10,000 figure? A. Yes, sir. I answered that before. I said there would be a reduction in the number of vehicles required by Mystic Valley.

XQ. Where does that appear in the report? A. In which report?

XQ. The Ebasco report. A. It is included in the Section C, page 38. It says the net reduction—this includes the net reduction and total cost of—reduction in total cost of transportation.

XQ. Mr. Simes, if we wanted to determine whether the difference in these two figures of \$59,300 and \$53,400 were accurate, how would we go about checking it from the Ebasco report? A. I don't think it would be possible to check it from the Ebasco report without the use of the backup information which we supplied you.

XQ. You mean backup information which you could supply? A. No, sir, which the staff requested.

XQ. Now, what backup material are you referring to?

Mr. Vorenberg: Do you want to put this in now?

[1933] Mr. Nowlin: I want to identify it so we can get the information to check it.

The Witness: It was my understanding that the staff was sent a group of tables which generally is entitled "Increases in Cost Under Combined Operations". That is the table I am referring to.

Mr. Vorenberg: Mr. Hearing Examiner, Mr. Nowlin has suggested off the record, I guess, that this would be an appropriate time for us to introduce as an exhibit certain backup materials which were provided to the staff at the staff's request.

Hearing Examiner: And which the witness has just referred to on the stand?

Mr. Vorenberg: That is correct.

*Further Direct Examination*

By Mr. Vorenberg:

Q. Mr. Simes, I hand you a document consisting of fourteen sheets, the first of which is entitled "Increases in Costs under Combined Operation" and ask you to state what it shows. A. This document is in the nature of a tie sheet between Exhibits 58-A and 91 and the derivation of the figures which are found in the second column of page 40 on Exhibit 91. That column sets forth in tabular form a summary of the increases in costs of the eight gas companies operating on a combined basis [1934] but separate from the NEES System, over and above the costs of those companies as part of the NEES system. The first page of this document gives in very brief form the source of the information set forth on the succeeding sheets.

Q. Will you turn to the second page and tell us what that shows? A. The first column entitled "Payroll" reflects the executive, administrative and staff payrolls as shown in the prior pages of the Ebaseo Supplemental Report—Exhibit 91. For example, the \$574,300 is the total of the payroll shown on pages 7 through 9 of that exhibit. You will note that the figure is the same as that shown on page 9—rounded off as have all of the figures on these tables. The other figures shown on that column are taken directly from the executive, administrative and staff portions of the personnel analysis of each company in Exhibit 91. The \$35,000 shown in the second column under "Expense Reimbursement" represents projected expenses of certain top personnel projected on a basis comparable to the expenses incurred in 1958 by Gas Division personnel. You will note

at the bottom of the first column that there is an adjustment of \$44,400 to reduce the payroll to average 1958 levels in order to put it on a basis comparable to that shown for actual system operation throughout Exhibit 58-A.

Q. Where does the figure \$529,900 for actual system [1935] operation come from? A. As noted in the footnote, this comes from the eight separate sections of Exhibit 58A. For example, if you will turn to page 124 of 58A, relating to Central Massachusetts, you will see in the table at the bottom under "Payroll" the figure \$35,600 as being the actual payroll and the figure \$1100 as being the figure for expense reimbursement. These are included in the \$529,900 figure under "Payroll" and the \$16,000 figure under "Expense Reimbursement." Similarly the NEPSCo billing for services which is shown on each of the pages indicated and the amount billed by Worcester (applicable only to Central Massachusetts and Wachusett) are taken directly from the Exhibit 58A. The next step is that these three items, actual payroll and expense, NEPSCo charges and the Worcester billings are deducted from the \$921,400 figure which represented the total for executive, administrative and staff and pro forma combined operation. In order to make the figures comparable there must be added to the resulting figure payroll taxes and fringe benefits on the increased payroll. This results in the total figure of \$188,200.

Q. Would you explain the tabulation at the bottom of page 2? A. This study shows the distribution of the net increase in cost to various accounts in accordance with the Uniform [1936] Classification of Accounts of the Massachusetts Department of Public Utilities.

Q. Will you proceed with your explanation of these sheets? A. The information shown on pages 3 through 7 was taken from the respective pro forma organizations of the gas companies on an independent basis as shown in each section of Exhibit 58-A relating to each such gas com-

pany, except where changes in costs would result from combination of the eight gas companies. Such exceptions are explained either by a footnote or by detailed schedules. For example, if you look at the tabulation at the top of page 3 relating to production, distribution, utilization and garage, you will see that with the exception of Mystic Valley the figures are taken from the sections of Exhibit 58-A dealing with production, distribution, utilization and garage for the pro forma operation of each of the gas companies. For example, the figure with respect to Central Massachusetts comes from page 126.

Q. In other words, Mr. Simes, with respect to the seven gas companies other than Mystic there would be no changes in costs of production, distribution, utilization and garage between independent and combined operation? A. That is correct. Now with respect to Mystic Valley if you will turn to page 447 you will see that the \$1100 reduction in operating expenses represents the difference between [1937] the customer service order item of \$4300 and the garage item of \$3200. The payroll taxes with respect to garage activities are also taken over. The utilization engineer, which is the other part of production, distribution, utilization and garage function for Mystic, is eliminated from the tabulation on the top of page 3 since in the combined operation he would be part of the central organization rather than in the Mystic Valley local organization.

In instances where it was helpful to attach a schedule, we did so. For example, if you will look at Supplementary Schedule No. 1, you will see that it gives the breakdown of the increase in new business cost for Lynn under pro forma combined operation.

Q. Will you explain the insurance figure on the top of page 6? A. The figures shown there come from Exhibit 92 introduced by Mr. Pearson. As noted, no attempt was made to allocate the increases among the various companies since

for the purposes for which it was introduced that was not necessary.

Q. If I may summarize, Mr. Simes, the purpose of this worksheet which you have introduced is to show the derivation of the second column on page 40 and to show in particular that they derive from the figures set forth in Exhibits 58-A and 91; and to the extent that the figures on a combined basis are the same as on an independent basis, you have so indicated? [1938] A. That is correct.

Q. Did you participate in the preparation of this document? A. Yes.

Q. Is it true and accurate to the best of your knowledge and belief? A. Yes.

Mr. Vorenberg: Mr. Hearing Examiner, I would offer this as Respondent's Exhibit 105.

Mr. Nowlin: No objection.

Hearing Examiner: This exhibit comprising fourteen pages concerning which the witness has been giving testimony is admitted as Respondent's Exhibit 105.

(Respondent's Exhibit 105 was received in evidence.)

#### *Cross Examination (Continued)*

By Mr. Nowlin:

XQ. Now, returning, Mr. Simes, to the distribution of clearing accounts and the figure \$59,300, on the eight gas companies on an independent basis and the eight gas companies on the combined basis, \$53,400, and the difference of \$5,900, can you point to any portion in Respondent's Exhibit 105 that will enable the staff to check these figures? A. It would be necessary to go through this Exhibit 105 to add up the increases and decreases in the clearing accounts.

XQ. Where are they shown? [1939] A. They are scattered all through here when we distributed the various in-

creases whether it is distributed to a clearing account or operating expense account. For example, on Supplementary Schedule No. 3, in the lower half of that tabulation, there is column there stating "Stores Clearing," which indicates the dollar increases over actual which would be put into a clearing account.

XQ. Mr. Simes, could you check off for us on Respondent's Exhibit No. 105 the component parts of the aggregate of \$53,400 reflected on page 40 of Exhibit 91? A. These figures, as I stated before, are items which are charged to clearing accounts, which when they are cleared are then separated between those that are charged to non-operating expense accounts and those which are charged to operating expense accounts. The \$53,400 on Column 2 are those items of the increased amounts in clearing accounts which would be chargeable to expense accounts, operating expense accounts.

XQ. Can you identify them on Exhibit 105? A. To reach a total of \$53,400, no, sir.

XQ. Then how can the staff check these figures? A. That is true. The only thing that you would need, the sum of the clearing account, and it is a necessary part, the only thing that you would need would be the split between the amount of the clearing accounts chargeable to plant and the amount chargeable to operating expense.

[1940] XQ. Mr. Simes, isn't it a fact that you have given us an intolerable burden in trying to check the accuracy of these figures?

Mr. Vorenberg: I don't think it is fair to say Mr. Simes is giving you an intolerable burden.

Mr. Nowlin: He prepared this report, this particular phase of it, and I imagine he supplied it to the Ebasco report. This is the second or third time, Mr. Examiner, that we have been confronted with this kind of a situation.

Mr. Vorenberg: Mr. Examiner, in this connection I think

I should state that the Ebasco representatives and the NEES staff have frequently in response to requests, informal requests from the staff, offered to work with them to assist in connection with making computations in connection with this report and other materials. We have had introduced in this proceeding already a number of letters and other information which has been furnished in that connection, and I can assure you that that availability and cooperation will continue. It is not fair to belabor Mr. Simes with the charge that he has imposed this intolerable burden on the staff. It is a terribly complex situation, as I am sure Mr. Nowlin realizes.

Hearing Examiner: What is before me for decision? Is it just an argument here between counsel as to whether this material which is set forth in Respondent's Exhibit 105 is an intolerable burden thrown on the staff? Is that evidence? What [1941] am I to decide? Isn't this just a quarrel between counsel as to the import of these figures?

Mr. Nowlin: Mr. Examiner, it runs deeper than that. I am beginning to formulate the view that this report is so deficient in respects of which it is being offered—

Hearing Examiner: Well, that is an argument for you to make before the Commission, not before me.

Mr. Nowlin: You asked the question and I am trying to answer it. I have not reached the definitive conclusion to point these things out. It may come to the point where I will ask the Examiner to reject these exhibits as evidence for the purpose for which they are presented.

Hearing Examiner: Ask the witness a question in view of the argument which has ensued, and I will rule on it if there is an objection.

Let us suspend for a moment.

(Whereupon, a short recess was taken.)

[1942] Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, I should like to request of

counsel for the respondents that they supply the staff with an itemization or breakdown of the \$53,400 figure that will enable us to make some accurate appraisal or check of this figure.

Mr. Vorenberg: We will be glad to do that, Mr. Hearing Examiner.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. On the same page, Mr. Simes, page 444 of Exhibit 58-A, you state to the effect that under independent operations six additional vehicles would be leased. Explain what is meant by the \$6,000 operating cost, plus \$4,000 for interest and amortization. A. Well, of the total leasing cost, \$4,000 are items of cost that do not go into operating expense. These are the interest that you in your leasing arrangements pay interest, and amortization as part of your lease cost. Then there are \$6,000 of operating cost, as is stated here.

XQ. Now, tell me does Mystic and the NEES companies lease vehicles, or do they purchase them? A. Yes, Mystic Valley is the only company that leases vehicles.

XQ. What kind of vehicles are these? [1943] A. Well, they are passenger cars, and my recollection in discussing it, I believe they lease their entire fleet.

XQ. Are they trucks or passenger cars or what type of vehicles? A. Passenger cars and trucks.

XQ. The companies don't purchase them outright? A. Mystic Valley is the only one that leases.

XQ. Who do they lease from? A. Offhand I can't recall.

XQ. Well, now, on what basis do they lease these vehicles? A. You realize, Mr. Nowlin, that this line of information which I obtained was about a year ago. I am not sure that I can recall exactly the basis of this detail.

XQ. Well, let's take one truck, for example. Do they lease that from some automobile dealer in the area?

A. No, it is a fleet leasing. You make arrangements for the total number of cars and trucks that are required.

XQ. Then what do you do from there? You make arrangements. Now, what kind of arrangements are made?

A. They provide the cars, and as I recall, they have a—

Hearing Examiner: Who is they?

The Witness: The company from whom you make the leasing arrangements. You service them yourself. This generally is not included in the lease arrangement.

By Mr. Nowlin:

[1944] XQ. Well, the thing that is puzzling me here is this amortization and interest on the equipment that they are not purchasing. Can you explain that in more detail to us?

A. Well, in a leasing arrangement there is in general in determining what the lease cost or the rental is going to be, there is an item that the company who is providing the vehicles includes for his interest and amortization of the vehicle. Now, this is included in the rental price.

XQ. I know of my own knowledge of some arrangement I think, for buses. For example, for bus companies, instead of buying the bus outright, it will lease it from either the manufacturer or dealer, and the lease rentals are adequate to amortize the full cost of the vehicle over a period of years.

A. That is right.

XQ. Is that the kind of arrangement you have got here?

A. Yes, sir.

XQ. What is this arrangement? A. I am speaking of in the total rental amount is an included amount for interest and amortization not on the company's part but on the part of the company that you are leasing your vehicles from. This is included in the rental figure.

XQ. But this rental figure paid by Mystic will amortize the cost of that vehicle over a period of time?

A. Yes, sir.

[1945] XQ. Now, do you know why Mystic is the only company in this system that has this lease arrangement? A. I am not sure I recall. I am afraid I don't recall the reason.

XQ. Isn't this \$4,000 item really a rental expense as far as the lessee is concerned? A. You mean insofar as how you handle it through your accounting system or are you talking about in the leasing arrangement that you have?

XQ. The lessee's accounting. A. Well, I would say that it would depend upon whether or not you can determine the figures which are part of your lease cost.

XQ. Why does the lessee call this interest and amortization rather than rental expense? A. Well, when you know the factors that are involved and can identify them, why call them by any other name? I am sorry I didn't mean to answer that by a question, but it is rhetorical question really.

XQ. As we understand it then, Mr. Simes, this is just a difference in label, this \$4,000 is a rental expense irrespective of what you call it? A. That is correct.

XQ. Now, directing your attention to Exhibit 58-B at page 1527, you notice there that the total Service Company [1946] billings for 1958 amounted to \$317,193.07. Can you tell us how much of these total billings were charged by the gas companies to capital account? A. If you will bear with me a moment, I am not sure I have that detail, but I will look. Of the \$317,193, \$63,155 was charged to plant, \$14,651 was charged to reserve, Account 319.

XQ. And the balance was charged as an operating expense or how? A. Well, there are some other items.

XQ. Oh, pardon me. A. \$3,676 was charged for maintenance reserve, Account 320; \$3,108 was charged to stores clearing. Then the breakdown of the amounts that come into the operating expense accounts \$230,497 charged directly to operating expense accounts, \$1,542 to preliminary

engineering, \$164 to maintenance work in progress, and the total of those four items comes to \$235,300.

XQ. What was the \$14,651 that you reserved? Was that reserved for depreciation? A. My notes state Reserve Account 319. A quick check of the classification of accounts, I could get the answer for you. I don't know which—

XQ. Will you obtain the answer for us? A. May I step down?

Hearing Examiner: Yes, sir.

[1947] Hearing Examiner: You may give your answer.

The Witness: That is depreciation reserve, Mr. Nowlin.  
By Mr. Nowlin:

XQ. Mr. Simes, when you look at page 2 of Respondent's Exhibit 105— A. Yes, sir.

XQ. —you will find there NEPSCO an amount of \$235,300 under billing for services. Was that all charged as an operating expense? A. Yes, sir.

XQ. Then the difference between these, the \$235,000 item and the \$317,000 item, amounting to \$81,893, was charged to non-operating expense? A. I will have to accept that figure. I didn't make the subtraction, but they were charged to non-operating expense accounts, yes.

XQ. Now, what allowance, if any, was made in the Ebasco estimates for charging a portion of the gas company's pro forma payroll to capital accounts, and please answer by reference to the figures contained in Exhibit 58-A and 91?

The Witness: May I have that question again?

(The pending question was read by the reporter.)

Mr. Nowlin: Strike that question and I will ask another one.

[1948] By Mr. Nowlin:

XQ. Isn't it a fact, Mr. Simes, that the personnel set up on the Ebasco reports on a pro forma basis was designed to perform the functions formerly performed by the service company? A. Well, we didn't set up these organizations

specifically to perform functions that had been previously performed by the service company. We set them up to operate a gas company. Certain functions we know have to be performed. We staffed them to perform those operations.

XQ. But you did project enough personnel to do the job and render the services previously performed by the service company, isn't that correct? A. Not completely, no, sir. There were services performed by the service company which we have not provided for in the pro forma organizations.

XQ. By and large doesn't your report, though, reflect personnel to perform the major part of the services previously performed by the service company? A. Well, as I stated before, it is difficult for me to answer that question because we didn't go at it that way. We set up the pro forma independent organizations and the combined operation on the basis of the functions that had to be performed regardless of what was done before.

XQ. Where did you get your basic material to form a [1949] conclusion as to the personnel that would be required on a pro forma basis? A. This is from our knowledge of what is required to operate a gas company.

XQ. Isn't it true, Mr. Simes, that the only services reflected in the Ebaseo pro forma estimates on a combined basis that are outside consist of independent audit and legal services? A. When you say combined basis you are referring to Exhibit 91.

XQ. The eight company basis. A. The only dollar amounts that we included for outside services were for outside auditing and outside legal counsel.

XQ. Therefore, it is a fact that the staff set up on a pro forma combined basis will handle and render the services previously performed by the service company? A. Not in its entirety, no. There is really no connection. There

are services that are performed by the service company which become available simply by the size of the New England Electric System and which can be provided at very low cost. We didn't go out and provide that sort of thing for the independent companies or for the combined operations in some instances.

XQ. Do you know of any instances where you provided personnel to perform services that had not been previously performed by the service companies? [1950] A. I am not sure that I understand that question. I am sorry.

XQ. Mr. Simes, directing your attention to page 1527 of Exhibit 58-B, and to the particular items "services rendered by the service company", who will now on a combined eight company basis perform the plant accounting and reclassification work, or will that be done at all? A. Yes, there is certainly the function of plant accounting that has to be performed, and in our staffing we have provided the necessary personnel to perform the required function.

XQ. All right. Now the same question with respect to the audit reports method assistance; that will be done internally by the pro forma eight combined companies? A. Not to the extent that the audits and methods assistance group of the service company provide it. We didn't provide that large a staff. We did provide for, I think you will see on page 8 of Exhibit 91, a group which will perform the internal audit with the assistance of people in the field that we have provided under the supervision, of course, of the assistant treasurer and treasurer, but so far as the systems and methods part of that, which New England Electric System provides, we haven't provided, in my opinion, a large enough group to perform those functions.

XQ. You mean that the pro forma combined companies will [1951] do without those functions? A. Which functions are you speaking of?

XQ. The audit functions. A. Those I mentioned, the in-

ternal audit will be provided under the combined operations as we visualize the staffing. What I said or what I intended to say was that a good part of the methods, the systems and methods planning and programming and development of new methods, a company that size has to do without that sort of thing.

XQ. Now, on a pro forma combined basis haven't you provided for corporate services? A. To the extent that it is required, yes, sir.

XQ. Well, won't it be required on a pro forma basis to the same extent that it was required before? A. In this instance we have provided for outside legal counseling, which would be included in these corporate services provided by New England Service Company—New England Power Service Company.

XQ. That is part of your outside professional help, isn't it? A. We have provided for a general counsel, and in addition, we have provided for outside professional help.

XQ. Are you referring to the \$10,000 of outside legal services reflected on page 6 of Respondent's Exhibit 105? A. Yes, sir.

[1952] XQ. Now, let's go down to the next item of insurance and medical assistance. Doesn't the pro forma combined companies of Ebasco reflect those costs, or costs for insurance or medical assistance? A. We have provided for an individual who under the treasury organization and in our whole E&A staffing of the combined operation for taking care of insurance matters. So far as the medical assistance that was provided by the service company, we haven't provided anything to the extent that they provided.

XQ. Didn't you provide among professional services—strike that.

How about the next item? Didn't you provide for labor relations assistance in your pro forma eight company estim-

ates? A. In general we have provided in our total E&A staffing people who are going to have to take care of the labor negotiations.

XQ. Now, will you take each one of these successive items and tell me wherein you have not provided in the pro forma estimates? A. Before I do that, Mr. Nowlin, there is one thing I would like to make clear, that in providing these services in every instance, as I attempted to make clear as I went along, there was no attempt on my part in staffing this combined [1953] operation to pick up in toto the services provided by the service company. We staffed it to provide the necessary functions. Now, some of these functions correspond to the services in a general way only to the services provided by the service company. With that preface I will start down the list.

In the case of sales department assistance, I think you will notice here that this was very negligible from the service company. We have provided a sales organization in the combined operation.

Under publication services, we have not provided a publications and publicity group to the extent that the service is supplied by the service company. We have said that there would be a type of house organ which we think a company of about 240,000 accounts could afford, nothing of the nature of the Contact that NEES puts out.

Under purchasing and stores services, we have provided a purchasing agent in the staffing organization, but I believe that in visualizing the duties of this individual I don't see how he or his staff can provide the stores assistance that the service company provided in the form of setting up store areas in the most efficient, the most economical fashion, in setting up inventory requirements and things of that nature, which is a very important function, but the staff that we have provided, I don't think can offer those services.

In the case of rate services we have not set up a rate [1953(a)] department at all. In my thinking on the thing I thought that one of the vice presidents I provided for in the E&A pro forma combined operation would be in general responsible for the area of rates, both rates to the company from the pipelines and retail rates to its customers; that again, the treasury organization of the pro forma organization would have to be called upon for statistical information, but if it were a major rate case they would have to go outside for both legal counsel and probably for expert help. We have not provided a staff for a rate department.

In the case of tax services we have designated in Exhibit 91 one of our treasury assistants as being—we would try to find a man who had tax experience to fit into that category.

Under the category of treasury services we have provided a minimum organization to perform them.

XQ. Now, isn't it a fact then, Mr. Simes, that in your pro forma estimates for the eight gas companies combined you have provided for the same type of services that had previously been rendered or are now being rendered by the service company, haven't you, except perhaps not to the same extent? A. Again, I want to in answering your question, I want to state very emphatically that what I did in manning this was first to determine what functions had to be performed. [1954] Obviously there are functions of a gas company that have got to be performed for which we had to staff, and which the service company provided or which in some instances the gas division provided. Those functions we have staffed to operate. There is no connection between the two. I keep insisting on that.

XQ. It just happens that your estimates happen to provide for the same type of services that were rendered by the service company, is that your testimony? A. Mr. Now-

lin, to operate a gas company certain functions have to be performed.

XQ. Now, do you know of any services that you did provide for the eight gas companies combined that are not now being rendered by the service company? A. All of the engineering.

XQ. Oh, I mean in these categories. A. In the servicing division, I can't recall any, again, because it is the functions that have got to be performed.

XQ. Now, turning to the engineering, Mr. Simes, the services previously performed by the service company will now be performed by the eight combined gas companies by themselves in your pro forma estimates, isn't that correct?

No, not completely, sir. A good part of this cost is blueprinting and things of that nature, or a specific drafting job, which the gas division is not geared to do, that will have to be done outside, and we did not provide any dollars for that [1955] particular type of work.

XQ. That wouldn't be a substantial figure anyway, would it? Blueprinting. A. You picked blueprinting alone.

XQ. Well, I will let you pick the items that you didn't include. A. Drafting could be a very expensive item if you were contemplating a major construction job.

XQ. Well, wouldn't that cost go into construction cost as a capitalizable item? A. Not the preliminary engineering.

XQ. Was any part of the engineering cost aggregating \$11,265.16 capitalized by the gas companies? A. Yes, sir.

XQ. Do you know what portion of that amount? A. No, I don't.

XQ. To the extent that the combined companies are going to do the engineering services previously performed by the service company shouldn't that be capitalized by the gas companies? A. To that extent, yes.

XQ. Have you made any provision in your pro forma

estimates for capitalizing any part of the new payroll costs of the eight gas companies combined? A. When you say any part of the new payroll, are you [1956] speaking of the engineering group?

XQ. Engineering. A. Yes, sir, we have.

XQ. Would you point out where you have given effect to that item in your report? A. On page 2 of Exhibit 105 in the distribution of accounts we have taken part of the engineering groups' payroll chargeable to expense account as it was in 1958 and part that was chargeable to plant.

XQ. Now, which specific items are you referring to, Mr. Simes? A. The net figure of \$12,600 is a net of many items.

XQ. Now, what part of this \$205,900 item did you capitalize? A. The \$205,900 item was not capitalized at all. That is all charged to operating expense accounts.

XQ. Doesn't the \$205,900 include engineering? A. A part of it, yes, sir, the part that is chargeable to operating expense accounts.

(Discussion off the record.)

By Mr. Nowlin:

XQ. Mr. Simes, how much of the pro forma engineering payroll for the eight gas companies was capitalized? A. I don't have that exact figure handy, Mr. Nowlin. I can state in the hope of clarifying what we were trying to straighten up before, that, as you recall in our Exhibit 91 we [1957] established the gas engineering group as it had been under the gas division. This was the start of our nucleus of the formation of the combined operation of E&A.

In 1958 there was a certain proportion of the engineering of the gas division which was chargeable to operating accounts and a certain portion chargeable to plant accounts. Now, since we are taking the group in its entirety to do the same functions we assume that that relationship would remain the same. We have taken that same relation-

ship, and therefore it becomes a wash as between the actual 1958 and the pro forma that we provided.

XQ. Well, could you explain that figure at the lunch period, Mr. Simes? A. I don't know whether at lunchtime or not, but I could get to work on it right away for you.

XQ. I believe you testified that of the \$317,000 odd aggregate service company billings for 1958, \$63,155 was capitalized in plant, is that right, sir? A. Yes, sir.

XQ. What is the analogous figure to the \$83,155 in the pro forma estimates of Ebasco? A. Well, this \$63,155 of service company charges was almost entirely the construction division. We have not provided for construction dollars in our pro forma estimate. What construction has to be done by the gas companies will have to be [1958] done by outside contractors, which is the way they provide most of their construction now.

XQ. Do you mean that you would have to go outside of the combined eight gas company organization to get the construction services previously performed by the service company? A. Are you speaking of a specific item here? Which item are you speaking of?

XQ. Construction performed reflected on page 1527 of Exhibit 58-B. A. Of \$88,858?

XQ. That is right. A. Most of that, yes. However, included in the construction group were, as I think I mentioned—I think its title is foreman—the holder mechanic and his helper. That is primarily maintenance work, but this \$88,858 represents the divisional charge of the construction division by the service company to the eight gas companies.

[1959] XQ. For a similar service, you have to go outside, on a pro forma combined basis? A. With the exception of the holder mechanics helper, which we have provided for in the pro forma, they would have to go outside to get the con-

struction work, yes, sir. You understand, they do most of their construction work with outside contractors, now.

XQ. Who actually performed this construction work effected on Exhibit 58-B, page 1517? A. New England Power Service Company.

XQ. Do you mean the service company actually does a construction service for the ~~s~~ company? A. Some part of it.

XQ. Is it not a very minor part? A. Oh, I think you can see from the figure of \$88,000<sup>7</sup> that it is a minor part.

XQ. Are these \$88,858.84 for billings, for services performed, for the eight gas companies? Would they have to go outside on a pro forma basis to get these services? A. As I said before, with the exception of the holder mechanic and his helper, whose charges are included in this \$88,858, we have provided for them in the pro forma organization.

Now, all the other construction services will have to be performed outside.

[1960] XQ. Now, can you tell me just what specific service work is performed in connection with \$88,000 charges? A. I am again sorry, sir. This is a year ago. At that time, we went into the various services that were performed, but I don't have it right now.

Mr. Vorenberg: Do you mean the type of services?

Mr. Nowlin: There is nobody in the pro forma organization that you set up that can do this construction performance?

The Witness: As I said, so far as the functions performed by the holder mechanic and his helper, who are part of the service company, construction division, we have provided for them in the pro forma organization.

XQ. And don't you have engineers provided for in the pro forma estimates that can do these same services previously performed by service company employees? A. I

thought we were talking about the \$88,858 of construction performance.

XQ. That is right. A. This is not the engineering. We have already discussed that. I said we set up an engineering staff. We set up an engineering staff to perform the engineering functions. This is construction services.

XQ. Well now, can you specify just what construction [1961] services are? Just what are they? A. Well, as I said, this is a year ago, since I went into this particular thing, but I can give you an example of the type of thing that they would perform.

Number One, you must realize that the preponderance of construction work performed or required by the gas company is done by outside contractors.

Now, where they have a special job, which again I am giving you an example, which may come up in any kind of gas company, where you have a particularly difficult tap to make, you may call on a specialist who performs this kind of work for the service company.

Now, they will have to go outside and get an outside contractor to do that work.

XQ. Well now, what employee does the service company now have, that would do that work? A. They have any number of construction employees. I think I mentioned in Exhibit 58-B under the service company, the people and the types of people who performed; the people and types of people of the construction division who performed work for the gas companies.

XQ. Well, it is my recollection—maybe I am wrong—in the direct testimony, that the gas company is almost self-sufficient. A. Engineering is separate from construction, sir.

[1962] XQ. And that the service company performs only a minor amount of services in that connection. A. In engineering.

XQ. If the construction is done by outside people, what work is there to be done by the service company? A. Well, as I said, if you are going to run a main for several miles for either reinforcing of the system or for load-growth, in general, the gas companies go outside and get bids to do this job, to run this main.

Now, there will be certain specific quick jobs where you are not going to call a contractor in if, through your knowledge, you have a particularly good man in this field over in the service company, and you put in a special request for his services to do this quick job. This is the sort of thing that builds up the \$88,000.

XQ. Do you mean then that these engineers' staff that you projected for the eight gas companies are not qualified to do that work? A. Sir, this is not engineering work I am speaking of. This is field construction work—a welder who gets down and welds two pieces of pipe together.

XQ. Have you not provided for welders for the eight combined gas companies? A. No, sir. They are going to use outside contractors.

[1963] XQ. Directing your attention, Mr. Simes, to page two of Respondent's Exhibit 105. A. Yes, sir.

XQ. Will you look at the figure of \$188,200. A. Which one? There are two.

XQ. The total covering executive, administrative staff. Total executive, executive personnel cost, payroll cost.

Is that right? A. That is the increase.

XQ. The increase? A. Yes, sir.

XQ. Now, how does that \$188,200 jump to \$205,900, which is shown on that page, and also carried over into page 40 of Exhibit No. 91? A. You will notice on page two in the third column, labeled Payroll, that the actual increase in payroll is \$356,500.

XQ. But when you deduct the NEPSCO billing, it comes to \$188,200. Isn't that right? A. Well, in going through

the upper half of this page two, you go from the increase of \$356,500. You add the increase in expense reimbursement. You add a \$53,500 for payroll taxes and fringe benefits; and from that—excuse me—subtracting of course, the service company and the billings of Worcester, you will come up to the \$188,200.

XQ. That is the increase dollar outlay that the eight [1964] combined gas companies would have to make, is that correct? A. The increased dollar outlay. Well, I am not sure I would use your same terminology but insofar as it represents the increased cost of payroll expense, reimbursement tax and fringe benefits, less what the service companies can charge, yes, sir, that \$188,000 represents that.

XQ. Why is the \$188,200 figure the additional cost which is being incurred? A. I think that you will see here, on page two, if you were to work backwards from the \$188,200, there is a reduction of—a net reduction of \$12,600 in clearing accounts.

Now, that net reduction of \$12,600 in clearing accounts is moved over to operating expense accounts. The effect of the series of reductions and clearing accounts—we have in this instance, charged on a net basis, clearing accounts, \$12,600 less and operating expense accounts, \$12,600 more.

XQ. Can you give us the makeup of this \$12,600 clearing account item? A. Well, I don't have those details with me, but one of the items, for example—

Mr. Vorenberg: Excuse me. Isn't that one of the items you already requested?

The Witness: I think so.

[1965] Mr. Vorenberg: That is included in the request that has already been made which we would agree to supply you.

Mr. Hearing Examiner, the staff has asked at this time that we introduce as an exhibit, the letter which Mr. Hanson

wrote to Mr. Gishman on December 7, 1960, providing some information at Mr. Gishman's request.

This letter gives the reconciliation of the \$1,300 increase in executive, administrative staff cost to the accounting effect of such increase for the year 1958. All is shown on pages 719 and 720 of Exhibit 58-A. We suggest that this be offered as Respondent's Exhibit No. 106.

Hearing Examiner: I hear no objection.

Mr. Nowlin: No objection.

Hearing Examiner: The letter is so admitted in evidence.

(Respondent's Exhibit No. 106 was marked for identification and received in evidence.)

Mr. Vorenberg: The only question is whether Mr. Nowlin would like this with some other number, related to something else. We will do it any way you want.

By Mr. Nowlin:

XQ. Mr. Simes, directing your attention to the second sentence, in the second paragraph of Respondent's [1966] Exhibit 106, it indicates that \$1,900 of Norwood pro forma executive payroll would normally be charged to construction. In your analysis of Norwood's increase cost contained in Appellant's Exhibit 58-A, did you make any allowance for such normal charge to construction? A. Are you speaking now of the independent Norwood, as an independent company?

XQ. On an independent basis. A. On an independent basis, yes.

XQ. Yes. A. Yes, sir. We have.

XQ. Can you indicate where the charge is made?

A. Well, we did not—

You notice on page 720 of Exhibit 58-A, the spread of the cost of \$1300 to the various accounts: \$10,700 to operating expenses net to other clearing accounts; \$200 payroll taxes; \$9400 other accounts.

Now, in general, so far as our procedure was concerned, in arriving at these figures, we attempted to segregate cost to operating expense accounts and non-operating expense accounts, all through here.

Now, the net effect of this amount of E & A that would be chargeable to plant accounts is taken into consideration in this net figure of \$9,400 which consists of several items. [1967] XQ. What other accounts were you referring to, Mr. Simes? A. Well, there would be charges to tax accounts; there would be charges to—I am sorry. We have the payroll taxes separate. Plant accounts.

XQ. How much would go in plant accounts? A. Well, offhand, I don't know that particular detail.

XQ. Do we understand that this \$9400 plant account would be relieved of a charge which would otherwise be made to it? A. Well, I cannot say that specifically without going back into all of the details.

This again, is a netted figure. For example, when you were asking me, it suddenly occurred to me, one of the items that is included there is merchandise. Just that part of this \$9400 and its breakdown, I don't have available right now.

XQ. Well, whatever that part may be, would not the plant accounting be relieved of that part? A. It would depend on whether it was an increase or a decrease.

As I say, I don't have the details of it.

XQ. Are there other similar charges among the other eight gas companies comparable to this on a pro forma basis? [1968] A. Are there other similar—which charges are you referring to?

XQ. Well, the item of \$9,400. Are there other similar items for each of the other eight gas companies? A. Well, you will notice, I grabbed Mystic Valley, because it is the largest. Well, on page 433, the figure there is a reduction of \$1,200 to other accounts.

XQ. What page is that? A. Page 433 of Exhibit No. 58-A.

I would say in general, in answer to your question, Mr. Nowlin, yes, sir; because of the merchandising item for one example.

XQ. Directing your attention to page 719 of Exhibit 58-A, it shows an increase—total increase—of \$1,300. A. Yes, sir.

XQ. Now, on the next page, 720, the operating expense is increased \$10,700 and this \$10,700 becomes a part of your claimed increased cost, does it not? A. Yes, sir.

XQ. Isn't the difference between this \$1,300 figure and the \$10,700 due entirely to an accounting convention? A. An accounting convention? I am sorry. I don't understand what you mean.

XQ. In other words, it is due entirely to the label [1969] that is put on these items, accounting-wise? A. Well again, without clearly understanding what you mean by labels, there certainly has been clearly established through the years, a uniform system of accounting. Almost every state I know of has established a uniform system of accounting, which public utility companies are required to follow in their accounting.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

XQ. Referring to page 40 of Respondent's Exhibit No. 91, and particularly to the item in Professional Services of \$20,000, the eight gas companies, combined basis, it is my understanding that is made up of \$10,000 for auditing services and \$10,000 for legal services.

Is that correct? A. That is correct. Yes, sir.

XQ. Now, isn't a portion of that \$20,000 item chargeable to capital instead of operating accounts? A. No, sir.

XQ. What work does the \$10,000 for professional services cover? I mean, legal services? A. As we stated in

our text of Exhibit 91, the \$10,000 of legal service requirements are for extraordinary items which the general counsel we provided for in a staff would not be able to handle. Not because of his lack of [1970] professional ability but because of lack of time on major items.

XQ. What major items did you have in mind? A. Well, I was visualizing something of the nature of a major tort litigation; a major rate case which incidentally was in the sense of a major rate case. We did not expect that to occur every year, so we pro rated it over a period—the \$10,000 does not include one particular rate case.d We would certainly have to go outside for legal services, I believe, in the case of a major labor negotiation. This is the sort of thing I had in mind—major items.

I don't see where any of those could be chargeable to plant.

XQ. Who is going to do your condemnation work in areas where you may have to condemn property or pipeline, or the franchise work in the local communities? A. To the extent that that would be required in—as I visualized it—the E & A staff, the general counsel would handle this under its normal work.

XQ. Well, isn't there a great deal of that type of work, establishing rights of way and condemnation work and local franchise work, that is being done by the system now, for the system companies now? A. I am not sure I understand you. Done by the system companies?

[1971] XQ. System counsel or outside counsel? A. Yes. To a great extent by the service company.

XQ. Well now, would not those services performed for those purposes, be kept aside? A. Again, to the extent that any items that would be not chargeable to operating expense account were taken out on the assumption it would be about the same as it was in 1958; but it would not come out of the outside legal services, because I explained—as I

explained, the items that I had in mind for the outside legal services were not involved in the plant.

XQ. Would not some portion then of the general counsel's salary be kept aside for that type of work? A. It is conceivable but as I already explained, it goes back to page two of Exhibit 105 and then that difference there.

XQ. Turning again to Exhibit 91, page 19, you will note that the total executive, administration, etc. of the local organization, amounts to \$58,840—on page 23 of Exhibit 91, the comparable figure for Mystic is \$61,603.

Is that correct? A. Yes, sir.

XQ. Now, is not Mystic about twice the size of Lynn in terms of gas customers? A. That is correct.

[1972] XQ. How do you explain the relatively small \$2,763 difference in these two items? A. You are speaking now solely of the very top echelon of these individual companies. I don't think that you can make any direct comparison without going into what is underneath them and what is above them.

XQ. Well how do you justify this type of areas, in view of the size and scope of the operation? A. I think you will find sir, that the primary difference is in the inclusion of administrative assistant in the case of Lynn Gas Company because insofar as the other positions are concerned, they both have a vice president, manager; they both have a general superintendent. In the case of Mystic, because again, of the size, in the Treasury area, where you have the greatest staff and a greater amount of work, we have a chief accountant and assistant chief accountant, versus only a chief accountant in the Lynn Gas Company.

So actually, what we are talking about primarily is the difference of the administrative assistant.

XQ. Well— A. Now, I am trying to go back over my thinking on this thing. It is quite a time. All I can say is that I know, in the thoroughness and detail with which

I went through this staffing, at that time, I had a [1973] reason for that executive assistant.

Right now, I don't want to try to pull something out of the air because I know that in developing this, it may have pertained to—as an example again; I am not sure—it might have pertained to the particular characteristic of the Lynn territory or the particular nature of its operation but I cannot tie it down right now.

XQ. Well, why does Lynn need an administrative assistant when it is only half the size of Mystic, which does not have an administrative assistant? A. As I say, that is what I was trying to recall to mind. I know, at the time I staffed this organization, I had to go through every position, position by position.

XQ. Well, you are unable to explain— A. I am sorry. It has escaped me right now.

XQ. Well now, on page 19 of Exhibit 91, I notice you provided here for an operating electrician, electrician first class.

Why are they provided for, in a gas company? A. Sir, the question of titles again is the situation here. We need—I have gone over the operating department staffing requirements to run the oil-gas plant that they have in Lynn. Now, whether you call a man an operating electrician or an electrician first class, or whatever you call him, this is something that has grown up with the [1974] Union. This situation, they are going to have to retain those titles, but the man performs the function that is required.

XQ. Well, are these titles here—are the two personnel put on here because of agreements with the Union? A. No. sir. They are put on because they are needed to perform these functions.

XQ. What function is this operating electrician and electrician first class going to perform for a gas company?

A. In the case of the Lynn Gas Company, the electrician, first class, and the maintenance man, first class, they would be doing maintenance work around the plant and of course, you realize that in the gas plant, there is a great deal of electrical equipment to operate these plants, particularly I am speaking of Norwood. This is true of an L. P. air plant, too; where we have used that title in the case of Lynn, and in the case of other companies, you will see where they have oil gas sets; we have utility workers; we have engineers; we have firemen—in that category.

Now, these men are performing the same type of work. When you walk into a gas plant, an oil-gas plant, there are certain functions that have to be performed, regardless of what you call it.

[1975] XQ. Well now, doesn't Mystic have a standby plant, too? A. Yes, sir.

XQ. Well, does that require an electrician, comparable to Lynn? A. They don't call them that. As I mentioned, well, maybe it would be easier to get at it this way, Mr. Nowlin.

In the case of Mystic Valley you have thirty people in the Production Department of various titles. In Lynn Gas, you have a total of 23.

XQ. Isn't it a fact that the area served by Mystic is much larger than that served by the Lynn Gas Department and that Mystic has almost twice as many customers as Lynn Gas? A. It is true that they have almost twice as many customers. I am not certain of the area.

XQ. It is just difficult for me to understand why, with this very substantial difference in the scope of the operations, that the executive costs of Lynn are almost the same as they are for Mystic. If you could clarify it for me, I wish you would. A. Are we back to what we were talking about before, the administrative assistant, or in the Production Department?

XQ. No. The total executive administrative cost. [1976]  
A. We have gone back to the executive and administrative.

XQ. Yes, sir. A. As I told you before, that this was a question of my memory and I don't know how long we would have to sit here, for me to recall just how this particular—

XQ. If you cannot justify it, there is no need to go into that. A. No. It is justifiable but you happened to pick a particular individual out of this entire staffing of eight gas companies in the local organization and ask me to identify this one man, right now.

XQ. Now, I notice that Lynn has, as you indicated a while ago, 23 production employees and Mystic has 30 production employees. A. Yes, sir.

XQ. How does the size of the production plant of Lynn compare with that of Mystic? A. In the case of Mystic, they have three sets that have been converted and three sets that can be operated at all times.

In the case of Lynn, they have only two sets that are capable of being operated at one time.

XQ. Well, is there substantial difference in the production plant? A. I beg your pardon, sir.

[1977] XQ. There is a substantial difference in the production plant of the two companies, then, is there not? A. Insofar as the output capacity, no, because I think the capacity of the sets of Lynn are slightly larger than the individual sets at Malden, in total capacity.

Well, I think in one of Mr. Dolbeck's exhibits, he indicated the capacities of the various plants.

Incidentally, Mr. Nowlin, we also have to take into consideration the fact that there are two L. P. plants in the Mystic Valley situation. My mind had been concentrating on the oil-gas plant because of the electric situation before. There are two L.P. air plants in Mystic; one in Malden; one in Reading, and Lynn has no L.P.; solely the oil-gas.

XQ. That raises a question in my mind as to why does it take so many people to run Lynn, which is a smaller plant. I understand you have six plants for Mystic. A. Oh, no. No. No.

XQ. Did you not say a while ago, there were seven plants in operation all the time, three stand-bys? A. Three sets. Three oil-gas sets in the gas plant which are capable of giving a total daily output.

XQ. Now, turning your attention to page 1427 of the transcript—1413, I am sorry—I believe you testified in effect that the 1958 purchasing department of New England [1978] Power Service Company purchased approximately \$30 million worth of materials and supplies, exclusive of fuel, which is purchased primarily for the electric company and that the gas companies would lose the advantage of bulk purchases.

Is that correct? A. Were you quoting from the record?

XQ. In part, I summarized.

(The pending question was read by the reporter)

The Witness: Yes, sir.

XQ. How much of the \$30 million was spent for materials useable only by the electric companies? A. I would say approximately \$27 million of the \$30 million is for the electric companies.

XQ. Now, what advantage do the gas companies get from purchases of materials useable only by the electric companies? A. Well, I think I mentioned that in my Direct. Many of these vendors are manufacturers of both types of equipment. Now, when you place an order with a vendor for various types of construction tools—well, let's start back again.

We are speaking now of materials that would be used by the gas company or the electric company or both?

[1979] XQ. I am speaking now only by that used by the electric company. A. That is right. Certainly. The large

compressor manufacturers, Ingersoll Rand, Allis Chalmers, any of these large compressor manufacturers, manufacture compressors that are useable either by the gas company or by the electric company. Certainly, in that instance, where you have brought your total construction program together, and know that you need "X" number of compressors, whether they be electric or gas, and even if they vary in sizes, there is going to be an advantage to this kind of purchasing.

XQ. What kind of compressors are you talking about? In regard to the gas? A. With regard to the gas. Compressors that are required in the gas plants, primarily.

XQ. What use are those compressors put to? A. To move the gas that is manufactured out of the plant.

XQ. Does that have any relationship whatever to the compressors used by the electric companies? A. No, sir. I said the same manufacturer supplies both.

XQ. How often and in what volume are such compressors purchased for the gas companies? A. I don't know, sir.

[1980] XQ. Well, would you say that it is rather unusual in a year's time to purchase compressors for gas companies? A. Yes. I think probably in any given year, there may be none or there may be several but it is something that is spread over a period of years and in addition, when I was talking about the compressors, that was the first instance that came to my mind. When you consider the steel that is purchased directly from steel manufacturers; now, the gas companies buy a great deal of pipe.

This will be purchased from a steel fabricator or directly from the steel mills, from the same place that electric companies will be purchasing steam pipes; boiler pipes; boiler plates.

XQ. What companies supply the pipe for the gas companies? A. Offhand, I don't know that detail.

XQ. Do you know whether or not these companies would be purchasing pipe for the gas companies, from the same company that they purchased steel for the electric companies? A. Yes, sir.

XQ. Which companies would they be? A. Well, again, I mean, I said I don't know what companies specifically they have made purchases with. While I do know that in my study of the service company, [1981] steel purchases for both electric and gas requirements, were made from the same steel company. Now, they don't purchase from the same steel company all the time, either.

XQ. Well, isn't it a fact, Mr. Simes, that the purchasing of steel by the electric company and the purchase of pipe by the gas companies, from a common source, is something that, if it does occur, occurs so rarely in connection with each other, that there are few if any material benefits for the gas company derived from that arrangement? A. I cannot agree with that. I know from my own past experience that when we purchased pipe, we would purchase it from Bethlehem Steel; National Steel; U.S. Steel; any number of these companies, which are the same companies that supply the steel for the electric generating stations, so it certainly makes sense to me, when a buyer is prepared to purchase a certain quantity of steel requirements in the form of pipe for the gas companies, steel requirements for the electric companies, that he has this whole bulk quantity in his hand when he goes to talk to these various suppliers, or when the come to talk to him.

XQ. Do you mean that the companies get a discount then from the steel company by virtue of the larger quantities of materials purchased? A. Well, that detail, I am not sure of, but it [1982] certainly, as I have stated before, it makes sense to me that you can get certain advantages and that is as far as I would carry it; in the form of when you need something quickly, if you are a big purchaser, you

are going to get action from the supplier. If you need something right now, or in the case when material is difficult to obtain, you are going to get preference because you are a big buyer.

This is natural.

XQ. You cannot reduce that to any dollar value? A. I did not attempt to, in my report.

XQ. In the course of any given year, do you know about how much is spent by the gas companies for pipe and how much is spent by the electric companies for steel? A. I would say in general—well, I have a figure. The total construction materials purchased—now, just purely construction materials—which would include steel; I don't have it broken down just in steel or pipe,—was approximately \$15 million in 1958.

On your combination gas and electric, of that \$15 million, approximately \$1,200,000 was gas material—construction material.

XQ. And do you have any idea how much of that construction material of the gas company is applied to pipe? [1983] XQ. Do you mean to imply, Mr. Simes, that if the gas companies were severed from the NEES system, were now operating on a combined independent basis, that they would have to pay more for that pipe than they would on the present arrangements? A. As I said before, Mr. Nowlin, it is impossible for me—if I could have made an estimate of the dollars, I would have included it in this.

I say there are advantages which I have just enumerated, some of them.

Now, they would not have those advantages as small purchasers.

XQ. How important are those advantages, Mr. Simes, when you look at the large figure of \$30 million and we find most of that is for electric purchasers.

How important is that arrangement for the gas com-

panies? A. Mr. Nowlin, at the time that you need material, this is extremely important. Again, going back to my own experience in this thing, when we were attempting to build an L.P. air plant, which requires the bottle storage, this was a small operating company. We had the very devil of a time getting this material.

Now, there is a distinct advantage. We attempted [1984] to contact all the fabricators of steel who made—

XQ. What year was that? A. My recollection is that it was back around, somewhere between '55 and '57.

XQ. Was that not during the period, Mr. Simes, that all of the gas companies and all electric companies were having a tremendously difficult time of getting pipeline supplies? A. That is exactly my point. The advantage to the NEES system is that at a time when they are scarce, the big buyer is going to get the best break.

XQ. Now, let me ask you—I happen to be a little familiar with the situation of the gas companies. That was the aftermath of the post-war situation, was it not? A. In '55 to '57?

XQ. '50 and '55. A. Here, I am going back in memory, but I think it is probably more the aftermath of—again, I am depending on memory. I think it was a steel strike at that time, or a threatened one.

XQ. Do you know how often those emergency situations have arisen in the past twenty years? A. That particular type, no. There have been others, too.

XQ. Isn't that an unusual situation, then? [1985] A. Certainly not. A steel strike—that is not unusual.

XQ. Well now, frankly— A. You tied this to the war. I did not.

XQ. I am talking about the aftermath of the war, before the steel companies got back into the ability to service the demands. Practically all of these natural gas companies were having a terrific time, for a period of five, six, seven,

eight years. A. You are speaking of the late '40s. I am speaking of '55; '57.

Hearing Examiner: How much more cross examination?

Mr. Nowlin: We have another day and a half, on this witness.

Hearing Examiner: Let us recess until 1:30.

(Whereupon, at 12:30 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

AFTERNOON SESSION

(1:30 p. m.)

[1986] Hearing Examiner: Let us come to order.

Whereupon,

JAMES F. SIMES

resumed the stand and testified further as follows:

*Cross-Examination-Resumed*

By Mr. Nowlin:

XQ. Mr. Simes, during the course of your examination this morning we were questioning you about the difference between the figure \$188,200 and \$205,900, as reflected on page 2 of Respondent's Exhibit No. 105. Now, your explanations have been more or less in general accounting terms and we are having difficulty understanding them. I would like to direct your attention to Respondent's Exhibit 106, which gives a detailed explanation of the difference between \$1,300 and \$10,700 in the case of Norwood in respect to the executive-administrative staff. I would like to request you to supply a similar detailed explanation in writing of the difference between the \$188,200 figure and the \$205,900 figure shown on page 2 of Exhibit 105. A. Yes, sir.

Mr. Vorenberg: Mr. Examiner, I have made this re-

quest before and I will repeat it again, that where Mr. Nowlin is asking additional work or studies or, in this case, accounting matters be undertaken by someone in the NEES group [1987] that it would be preferable from our point of view if he would direct that question to us, direct that request to us.

Mr. Nowlin: Then I will make the request of counsel for respondent that is reflected on the record.

Hearing Examiner: Read Mr. Nowlin's last remarks.

(Question read by reporter.)

Hearing Examiner: I understand, Mr. Vorenberg, that you will supply that information.

Mr. Vorenberg: Yes, sir.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. Now just prior to the luncheon recess, Mr. Simes, you had mentioned one item—I think it was steel—which you thought, the joint purchase of steel and so forth, was an advantage to the gas company; is that correct? A. Yes, sir.

XQ. Now, could you point to any other particular item that would be equally applicable? A. Well, as I have stated before, Mr. Nowlin, in the whole area of purchasing there would be advantages to bulk purchasing through the present service company purchasing agents to the gas companies. Now you asked for some specific examples. I think one of the ones I mentioned was steel; another one was in the case of compressors and, furthermore, [1988] of the total estimate of construction materials for the gas companies, I think I mentioned the figure of a million, two hundred thousand, and about a million of it is in the steel category.

XQ. I think you explained this morning what you meant by compressors for gas. What do you mean by compressors for electricity? A. Well, in electric generating stations

you require compressors in conjunction with your boiler plants and compressors of various types.

XQ. Are you talking about air compressors, Mr. Simes? A. Well, I wasn't speaking of that specifically; I was speaking of the general category of pumps, of forced air draft fans, the type of equipment that is made by the manufacturers that I mentioned earlier, such as Ingersoll, Rand, Allis Chalmers.

XQ. For the present time let's just stick to the compressors used in electric companies. What kind of compressors and for what purpose do you have for electric companies? A. I just mentioned some. I said in the general area of pumping equipment, which is made by these manufacturers.

XQ. A pump is not a compressor. A. Well, it is of the same general nature. My point was that the manufacturers such as I mentioned before manufacture [1989] the type of equipment that is used both in electric and gas.

XQ. You mean the manufacturers who manufacture gas compressors also manufacture pumps that are used for electric purposes? A. Yes.

XQ. Now, which manufacturers does NEES purchase compressors for gas and pumps for electric that are jointly purchased or jointly manufactured? A. Well, I am sorry, I don't recall that detail as to which vendors they use. As I did mention before, they go out into the market for this type of equipment; they contact all of the manufacturers of this type of equipment.

XQ. Well, how about the purchase of gas meters and electric meters? Are they made by the same manufacturer? A. To my knowledge—I can't recall any gas meter manufacturers who make electric meters, no, sir.

XQ. So that the joint purchasing arrangement then wouldn't be of any benefit with respect to the purchase of the gas meters, would it? A. No, I can't see any in that

specific area that we were discussing of going to a common manufacturer. You realize, of course, that the meters are a relatively small proportion of the total construction expenditures of the gas company.

XQ. Do you know what proportion? [1990] A. Well, I don't know specifically in any given year, but I would say it is less than ten per cent.

XQ. Are you talking about the electric company or gas?  
A. No, sir, the gas.

XQ. You were talking about the purchase of pipe for the gas company. What kind of pipe is generally used by the eight gas companies in their operating territories—cast iron or steel? A. Well, all new construction is steel.

XQ. You mean that is for the main transmission lines?  
A. No, for their distribution lines.

XQ. Even the takeoff from the street connecting into the house, are those steel? A. Steel services, yes, sir.

XQ. Well, is there is very little cast iron pipe purchased for use by the gas company? A. For new construction, I would say none at all. There would be some possibly purchased for minor maintenance.

XQ. Are there any other joint purchases that might be beneficial or advantageous to the gas companies that you haven't named? A. Well, certainly in the entire area of fuel. As I mentioned before, when you purchase oil for your oil gas plants, you are buying it from the same supplier that you are purchasing oil for your electric generating stations.

[1991] XQ. Do the electric generating stations in the NEES system use oil? A. Some of them do.

XQ. Do you know how many? A. No, sir, I don't know how many.

XQ. Isn't it a fact, Mr. Simes, most of them use coal?

Mr. Vorenberg: What year are you speaking about, Mr. Nowlin?

Mr. Nowlin: About 1958.

The Witness: I would say that most of the fuel used is coal.

By Mr. Nowlin:

XQ. So that there would be very little advantage in joint purchasing of oil; is that correct? A. Oh, certainly.

XQ. Have you made any estimate of how much the gas companies save under their present arrangements for joint purchase of equipment? A. No, sir. I stated earlier that it is almost impossible to determine it in the question of dollars. If I had been able to determine that, I would have included it as a loss of economy, that's for sure.

XQ. Mr. Simes, whatever losses of economies that may occur with the severance of the gas companies with respect [1992] to the purchase of steel or anything else for construction, wouldn't those losses be capitalized as part of the prime account and not reflected as an operating expense? A. Insofar as you are talking about a variation in price for materials, for construction materials, that is correct. In general, most of the construction material you purchase would be capitalized. There are some materials that would, of course, find their way into maintenance expense and the fuel that we were talking about before is all an operating expense.

XQ. Turning to Exhibit 91, page 40, can you tell us what portion of the claim \$1,165,600 of increased expenses on the pro forma eight companies combined basis represent costs for executive and other services designed to replace the services theretofore rendered by the service company? A. Mr. Nowlin, a direct answer to your question is impossible. As I mentioned to you this morning, the establishment of the central organization of this combined operation, the establishment of the executive and administrative staffs of the companies within the combined group, were

established solely on the basis of what was needed to perform the functions necessary to carry on a gas operating company. Now, I don't see how it is possible to answer your question in terms of dollars.

XQ. On page 40 of Exhibit 91, under combined eight [1993] gas companies you show a decrease of \$2,500 in transportation costs. Is that decrease of \$2,500 less than actual, as I understand it? Is that correct? A. That is correct.

XQ. Does this mean that no transportation economies can be effected on a combined company basis as against an independent company basis? A. If I understand your question, Mr. Nowlin, could there be any or does this mean that there are no economies between combined operation and independent operation in this particular item of transportation.

XQ. That is right. A. That \$2,500 which is shown as a reduction from the actual can be best explained, I believe, through the use of the tables in Exhibit 105.

XQ. We are not interested in the actual, Mr. Simes; what we are attempting to ascertain here is why no economies can be effectuated as between the eight independent company operations and the eight company combined operations. A. Well, I was going to explain that there are and that the \$2,500 again is a net figure of several items. For example, in the case of the central organization, we required seven vehicles, whereas under the independent operation that was a reduction of four vehicles, a reduction of four vehicles from what was required by the eight independent companies. [1994] Now, that effect, which is approximately \$6,500, was taken care of in the overall figure of the miscellaneous item that we mentioned on page 38, I believe it was, of \$25,000.

Now it says here that this would include expense in connection with the special holder and gas plant mainten-

ance service and a net reduction in the total cost of transportation equipment.

XQ. The reference you have just made to page 38 is in general language. Could you give us any figures to show why there is no difference in the transportation costs of the eight gas companies independent and the eight gas companies combined. A. In the case of combined operation, we have reduced the number of vehicles, passenger cars, required by four in going from independent operation to combined operation. The net effect of this reduction is a reduction of \$6,500. Now, that was included in the \$25,000 mentioned on page 38. The \$2,500 figure that you are looking at, which I think is giving you a problem, is the result of the servicing of cars between Worcester and Central Mass. and the servicing of cars between Suburban and Mystic under the actual operation. Now, under both independent operations, as far as Central Mass. is concerned and so far as Mystic Valley is concerned, that \$2,500 remains exactly—the \$2,500 reduction remains the same for both cases. This was, as I said before, in [1995] servicing vehicles by Worcester for Central Mass. and not only the servicing of vehicles, but joint use of some vehicles and the same situation in case of Mystic Valley and Suburban Electric.

XQ. Now, on page 1411 of the transcript you testified to the effect that one of the guides used in setting up the pro forma executive and administrative staffs of the NEES gas companies on a combined basis was the organization of other similar gas companies. Is that an accurate summary of your testimony? A. As a guide, yes. That is correct.

XQ. Will you please identify these companies referred to?

Mr. Vorenberg: I don't think you quoted directly from that portion of the transcript, Mr. Nowlin.

Mr. Nowlin: I didn't quote.

Mr. Vorenberg: I think you put two sentences together and it makes a difference.

Mr. Nowlin: I asked if this was a fair statement of it and he said yes.

Mr. Vorenberg: The transcript speaks for itself.

Mr. Nowlin: Do you disagree with your witness?

Mr. Vorenberg: I think the witness accepted at face value what you offer as a quotation.

Hearing Examiner: What is the quotation?

[1996] Read the question.

Mr. Nowlin: Well, here is what it says: "Of course, one of the helpful guides in making this determination was the present method of operation of these companies. We also considered the organization of other similar gas companies, which, like the present organization of this company, served as a check or a test for our conclusions as to what might be necessary in different areas, subject in each case to molding the organization to the particular situations of the North Shore, as if it were operating on an independent basis."

Hearing Examiner: Is your answer the same that you gave, Mr. Simes?

Mr. Nowlin: The witness didn't have any trouble with the question.

The Witness: I said as a guide, yes.

Mr. Nowlin: His counsel does have trouble with the question.

Hearing Examiner: Well, I think we are over that trouble now. Let's pass to something else.

Mr. Nowlin: I asked him to identify these companies.

The Witness: Well, again bearing in mind that this was used solely as a guide after the determination had been made, naturally I looked at the organizations of some of the Massachusetts gas companies and what I had

in mind was the organization of various companies which I know throughout the [1997] country.

By Mr. Nowlin:

XQ. What are the names of these companies, Mr. Simes?

A. In the case of the State of Massachusetts, we examined the Berkshire Gas Company, the Fall River Gas Company, the Haverhill Gas Company, which, incidentally, are the only independent gas companies. We examined the American Business Associates group, which includes Lowell Gas and Buzzards Bay, took a look at the Teney group, which is Brockton-Taunton, Fitchburg, Springfield Gas.

XQ. How did the staffs of these companies you just named compare with those projected by you for NEES companies on a combined basis? A. I would say that in general the comparison was fairly similar. The only difference might be in titles or something of that sort, but after all, again, Mr. Nowlin, you are staffing a gas company to provide certain functions and they are going to require certain staff people.

XQ. As I understand it, you used these comparisons as a guide and we would also like to have these comparisons for our information to check the validity of your conclusions. Did you reduce your study of these other gas companies to writing? A. So far as the executive and administrative staff was concerned, I think it is well known that this information [1998] can be obtained right from the reports of the Department of Public Utilities. Now, there is one thing I want to straighten out. You came back again and said it was used as a guide and I am trying—Would you find the page you refer to?

Mr. Vorenberg: 1411.

The Witness: 1411. "One of the helpful guides in making this determination" and I am quoting "was the present methods of operations of these companies. We also considered—"I am not going to repeat this because

it has already been read into the record once before. It served as a check or test.

By Mr. Nowlin:

XQ. That is what you mean when you said "We also considered the organization of other similar gas companies", that you used those— A. Which served as a check or a test.

XQ. Well, is it unfair then to say that this was one of the guides used? A. Well, I think there is a difference of connotation in what you are saying. The word "guide", if you are starting out on a trip you have a guide or a road map. This is not the case. This is after the fact. This is a normal thing that you do in any kind of consulting job—you find a test.

XQ. I am not trying to impute something to you that you [1999] didn't do. A. Well, you are putting emphasis on "guide".

XQ. Well, I will use the word "consider" then, if that will help make you happy. A. A check or a test after the organization had been staffed.

XQ. What are the figures, Mr. Simes, that you found in the Berkshire, Fall River, Haverhill companies that persuaded you that your estimates were not out of line? A. Well, for example, in the case of Fall River Gas Company, which has or did have in 1958 34,212 customers, the salary of the President is \$20,800. In companies of the NEES System of comparable size, North Shore, 33,113, Lawrence Gas Company, 32,801 customers, the salaries that we pro formed there was \$21,000 for the president. Now, there again I wish to emphasize that we did this and then went back to look at the various companies to see if we could find a company that was of comparable size, somewhat similar situation, but it was not the guide, it was the test after the fact.

XQ. Did you make any check or comparison of the total

executive-administrative cost of these three gas companies with that projected by you for the NEES gas companies? A. Yes, where we were able to obtain the information, we did try to make a test against that.

XQ. Could you give us those figures for the three [2000] companies? A. In the case of Berkshire Gas Company—I think I would, rather than call E&A, I would rather specify the type we are talking about, and I will also say that this is, in general, because some titles do not apply to certain companies, but the list is Chairman of the Board, President, Vice President and General Manager, Vice President, Vice President, Vice President and General Superintendent, Treasurer, Clerk and Assistant Treasurer, Assistant Clerk, Clerk.

Now, again, I say all those titles do not apply to all companies, but this is the area that if you ask me if I have tried to look at total E&A, this would be the group I would be speaking of. In the case of Berkshire Gas Company, \$94,500; in the case of Fall River Gas Company, \$52,500; in the case of Haverhill Gas Company, \$32,400, and I would like to add to that Haverhill Gas Company, in my understanding in talking to some of these people, they used an outside consulting firm which supplies them with management services which takes some of the E&A costs.

XQ. You don't know what that is? A. I don't know what that figure is, no, sir. In the case of American Business Associates, the two companies under their leadership—Buzzards Bay and Lowell Gas Company—they have a total of 37,902 customers and the total E&A expense was \$90,400, again in the case of the titles that I [2001] mentioned before.

XQ. Now, at page 7 of Respondent's Exhibit 91, there is reflected a projection of your recommendations for the executive and administrative portion of the Ebasco report, isn't there? A. Yes, sir.

XQ. I notice there that the salary for the President is fixed at \$40,000. A. That is correct.

XQ. How does that compare with the salary of the President of the present Gas Division? A. My recollection is that at that time the President of the Gas Division or, rather, the President of the eight companies was something on the order of twenty-five or twenty-six thousand dollars.

XQ. And that salary is somewhat in line with the salary of these other three Massachusetts companies which you read awhile ago, wasn't it? A. Somewhat in line.

XQ. I think you mentioned the figure of \$20,000 for one company and \$24,000 for another company and I forget the other figures. A. Well, when you say in line, there is no basis for comparison here whatsoever.

XQ. Well, at least in dollar amounts they are pretty [2002] much the same, aren't they? A. No, sir, there is no comparison whatsoever.

XQ. No comparison in dollar amounts? A. Well, you can't compare the dollars unless you know what you are buying with the dollars.

XQ. I didn't ask you that question; I just compared the dollar amounts. A. I would like to make it clear that so far as the dollars are concerned, you cannot compare the salaries of the President of a 33,000 account company with the salary of a president of a company who has available to him all of the executive staff, talent, ability of the NEES System. He is not responsible for the financing which some president of one of these other companies might be. For example, there are other things that the president of the eight gas companies in the NEES System is not responsible for when we move from the NEES System to the combined operation, where you have got a president who is going to be wholly, fully responsible for the operation of a 240,000 customer company. He has full responsibility for going out and getting the money to run this

company; he has full responsibility for every single detail of that operation and, if anything, I think that \$40,000 is understated that we have on page 7 of Exhibit 92.

XQ. You say about going out and getting the money. What is the Treasurer of this company going to do? [2003] A. The Treasurer of the company is the man who makes the studies to determine how we are going to get the money, but the President is the man who has got to go out and get it.

XQ. Doesn't Mr. Hanson at the present time, who is not President of the NEES System, get the money for the NEES gas companies? A. I am not familiar with what Mr. Hanson does, I am sorry to say.

XQ. Did you also project the Executive Vice President at \$25,000 a year? A. That is correct.

XQ. And three additional vice presidents; is that correct? A. Yes, sir.

XQ. Now, if you have a well qualified President and an able compliment of three vice presidents, why do you need an Executive Vice President? A. Mr. Nowlin, there are any number of companies who have, who are smaller than the 250,000 customer company, who have an Executive Vice President and, secondly, I would like to call your attention to the fact that when I was mentioning some of these Massachusetts gas companies before, there was a Chairman of the Board who takes considerable responsibility away from the President. Now you have to look at these two [2004] things together. The Executive Vice President, as I visualized it in putting it into the staff was to be the actual supervisor, to use ordinary language, of the rest of the organization. The three vice presidents would be reporting to him.

XQ. Well, it is a little difficult for me to perceive why you need an Executive Vice President supervising the work of three competent vice presidents. A. You need the

funnel, Mr. Nowlin, and the Executive Vice President acts both as a buffer in some cases and as a funnel for information to the President. Now the President of a 250,000 account company is going to be a pretty busy man.

XQ. Well, I was just going to ask you if the Executive Vice President and these three vice presidents were performing their function, what is there left for the President to do? A. Is that a facetious question?

XQ. No, it is an honest question. The fact that you have an Executive Vice President of a company doesn't justify their existence. There are many offices that exist in a corporation, but there is no justification for the salary as far as the work is concerned. I am asking you on that basis. Is that the case here? A. No, sir, that is not the case. In this instance, and we have gone down on page 3 of Exhibit 91 to the extent [2005] of outlining in general what the functions and duties of these various executive officers would be.

XQ. That is part of the information that caused me to pose these questions, because I have difficulty there in seeing, if the executive vice president and the three vice presidents actually perform the functions as they are listed there, I have difficulty in seeing what is left for the President to do except to preside over Board meetings.

Hearing Examiner: What is your question now? You are arguing with the witness.

Mr. Nowlin: I am not arguing; I am just explaining my point.

Hearing Examiner: Well, that is arguing, I would say.  
By Mr. Nowlin:

XQ. Now, on page 9 of the exhibit you have a Treasurer and an Assistant Treasurer and a Treasurer Supervisor and three Treasurer Assistants. A. On page 9?

XQ. It is on page 9. Page 9 is the Treasurer Supervisor and Treasurer Assistants and on page—I guess it is

7—you have the Treasurer and Assistant Treasurer. Now, can you explain the need for what appears to be a duplication of services in this respect? A. Well, I see no duplication of services. So far [2006] as the Treasurer staff is concerned, this is the group that is doing the day in and day out work of preparing reports, of making analyses which are required by the Treasurer or the President and, as a matter of fact, on page 9 we specify the general duties of the three Treasurer Assistants, one in the area of taxes, another in the area of insurance and a third in the area of corporate accounting.

XQ. Now, I think you also have a Sales Manager set up here on page 7, don't you? A. That is correct, sir.

XQ. Now, at the present time isn't Mr. Dalbeck running all of the functions of these gas companies, except those supervisory functions supplied by the service company, including the sales? A. He is in charge of sales, yes, sir.

XQ. So what you have done here is substituted several top executives to perform the functions now rendered by the service company; isn't that correct? A. In some instances—Again let's go back. As I said, we have staffed these for what we believe are required to carry out the functions of a gas company and in the case of the President, in the case of the Treasurer, in the case of the General Counsel, of the top executive and administrative group, a good deal of the services which they will be required to perform are presently performed by executives of NEES and [2007] the service company.

XQ. Well, I would raise no question about the General Counsel. I assume you need a lawyer anyway. A. I thank you for that concession.

XQ. Now, directing your attention again to page 40 of Exhibit 91, you show an increase of \$101,300 for the eight gas companies combined for miscellaneous expenses. Does this increase include without change the \$75,900 increase

shown under independent company operations? A. M  
I have that question again?

(Question read by reporter.)

The Witness: Without going through all of the specific items that are involved in those miscellaneous and other pending primarily on my memory, the bulk of the change is due to the changing from independent operation to combined operation and the formation of the central organization for which there was miscellaneous charges. Now in any specific instance, I would say in general the miscellaneous charges under the independent operation for local companies are found in the local organization and those charges were still, those increases in miscellaneous costs were still required under the combined operation.

By Mr. Nowlin:

XQ. You carried those over to the \$101,300 figure. A. After we examined each one, yes, sir.

[2008] XQ. Then, as I understand it, the difference of \$25,400 shown on page 40 applies exclusively to the central organization; is that correct? A. No, I didn't say exclusively; I said in general the bulk of it applies to the central organization.

XQ. Will you look at page 447, Exhibit 58?

Hearing Examiner: Just a moment. We are going to change reporters.

[2009] By Mr. Nowlin:

XQ. I note on page 447, miscellaneous operating expenses for Mystic of \$32,900. Do you find that figure?

This is discussed in detail on page 445 with regard to the first item relating to telephone service. A. Yes.

XQ. What was the total joint telephone cost of Mystic and Suburban for 1958? A. What was the total joint

XQ. Telephone cost. A. I don't have that figure available. As it states here on page 445, the charges

Suburban to Mystic for telephone service in 1958 amounted to \$26,000.

XQ. Do you know on what basis this joint cost was allocated as between the two companies? A. Primarily on the basis of instruments used by Mystic Valley personnel or in the case of people whose work was a joint operation, a portion of it was charged to Mystic Valley. Here again it is primarily based on the telephone equipment used, extensions, telephone instruments and so on.

XQ. Assuming that Mystic and Suburban were to continue joint occupation of the office building at Malden after severance, couldn't the present joint telephone service be continued? A. I want to make sure I get your premise. If the gas companies were severed and continued to use the same quarters [2010] would the telephone—

XQ. Would the present telephone— A. —facilities be jointly used?

XQ. Be continued as it is. A. I can't accept the first premise. I have no basis for it. We in our setting up of the independent organization provided separate quarters. We did not anticipate that they would be able to stay in the same quarters as the electric company.

XQ. We are going to get around to that afterwhile. A. I am sure you will.

XQ. I was asking you if you take these assumptions if they were to stay together and they were severed, there wouldn't be any change in the present arrangement, would there? A. Yes, I think that you would probably have to make some very definite changes. You certainly under independent operation—

XQ. I am talking about the combined operations now. A. But I meant under severed conditions, even for the sake of discussion, for the sake of argument, allowing the fact that they would be using the same quarters, which is so far-fetched in my mind I haven't even—well, you

have got certain areas there where you just wouldn't conceive of the thing going through the same switchboard, for example. This is included in the equipment that I was mentioning before.

[2011] XQ. Now, if these two companies stay together under joint common control, if they occupy the same building. A. Mystic Valley gas and the electric company.

XQ. It is your opinion then that if there was a severance that the present joint telephone arrangement would not continue even though they continued to occupy the same building? A. That is right, sir.

XQ. Now, the next paragraph on page 445, mention is made of IBM equipment. What is meant by the expression "rented jointly"? A. The IBM punch card equipment that was used in Malden for joint billing purposes, I believe, was rented from IBM. Now, the statement "rented jointly" means that a portion of the rent was paid by the participating companies in this IBM punch card system.

XQ. Do you know what the total rentals paid to IBM were for the machine? A. No, I do not.

XQ. Do you know how it was allocated between the two companies?

Mr. Vorenberg: Are you asking for the specific amounts or the methods we used?

Mr. Nowlin: I asked him the amounts and he said he didn't know. Then I asked how the costs were allocated.

Mr. Vorenberg: Are you asking the dollar amounts [2012] that were allocated or the types of units he used?

Mr. Nowlin: I am asking for the methods.

The Witness: My recollection, Mr. Nowlin, is that the allocation of the rental of the IBM equipment was based on a pro rata share either the number of customers or the number of bills, I am not sure which.

By Mr. Nowlin:

XQ. Do you know whether the total rentals paid by these two companies is designed to amortize the cost of that machine over a period of years? A. The rental charge for the equipment that the manufacture—IBM, Remington Rand, and the rest of the companies that provide this type of punch card equipment—is on a rental basis, and they set up their rental charges in order for them to recover the cost of the equipment over a period of time. So far as the rental that is actually billed to the companies they receive it as a rental charge by each individual type of equipment right from the key punch on up.

XQ. Did you make any analysis or study of this particular cost to determine whether it would be more economical for the companies to purchase the machine rather than to rent it? A. To my knowledge, in the case of IBM you cannot purchase the equipment.

[2013] XQ. Did you reach any conclusion, Mr. Simes, as to whether the allocations of the rentals paid for IBM machines was fairly allocated as between the two companies? A. The rental charges of the equipment itself you are speaking of?

XQ. Yes. A. I went over the allocations and determined what the basis was. That is why I was having a difficult time trying to remember previously when you asked me this question. At the time I had to satisfy myself that the allocations, not only of the rental equipment, but also of the space which it occupied, was allocated properly. This determination I did make.

Mr. Nowlin: Now, Mr. Examiner, I would like to request of counsel for the respondents that he supply us with the details of these costs and the methods of allocating these costs.

Mr. Vorenberg: The bill machines at Mystic?

Mr. Nowlin: Yes, sir, and also the Suburban.

By Mr. Nowlin:

XQ. Now, Mr. Simes, will you explain this whole paragraph regarding the IBM punch card equipment particularly with regard to the arrangements for cross billing? It is not clear to us what is intended to be portrayed there.

Mr. Vorenberg: Would you read the question for us?

(The pending question was read by the reporter.)  
[2014] The Witness: Is there any particular part that you want?

By Mr. Nowlin:

XQ. The cross billings is the one thing that caused us some difficulty. A. Well, for example, as it states here, all customer bills of North Shore Gas Company were processed on this equipment for which service North Shore paid \$5900 to Mystic during 1958."

XQ. Well, if the machine rentals was allocated on a fair basis to begin with, what is the reason for the cross billing between Mystic and Suburban? A. Again, I cannot recall the details of this apportionment of cost, rental cost, between Suburban and Mystic, but I believe that the information that you have recently requested us to supply would have that detail in it.

XQ. Well, would you include that detail in the information we requested?

Mr. Vorenberg: Yes.

By Mr. Nowlin:

XQ. What effect would the combined operation of the eight companies have upon the situation described in the third paragraph regarding IBM punch card equipment? A. In the combined operation of the eight gas companies we envisage that Mystic Valley Gas Company would continue to [2015] operate its IBM System in the same way that we provided for under the independent operation. So in answer to your question, the change here as discussed in this paragraph on page 445 is shown in dollars on page

447, machine accounting, an increase of \$13,400 in operating expenses and \$100 in payroll taxes, and that would be exactly the same in the combined operation. It would be the same equipment, the same set-up.

XQ. Now, in your projected cost for the eight companies combined did you assume that Mystic and North Shore would pay the full rental cost of this machinery even though Suburban was no longer making use of it? In other words, would Mystic and North Shore be paying a rental cost for a machine that was not devoted to full use? A. No. I believe, as Mr. Johnson testified earlier, we set up a new set of equipment for operation of the Mystic Valley operation under independent operation, independent cooperation. The overall rental cost is actually less.

XQ. But you abandon in your independent study in the combined study the present arrangement for using the IBM punch card equipment? A. No, sir. Going from actual to independent operation we provided for an IBM punch card system in Mystic Valley to do its billing. In going from independent to combined operation we kept the same equipment that was required under independent operation.

[2016] XQ. Well, why does Mystic incur an additional rental expense of \$11,000 as reflected on page 445? A. This is due to losing the economy of joint operation.

XQ. With whom, Suburban? A. Yes, sir, and even North Shore in there.

XQ. Mystic was paying its fair share of the rental cost of this machine on an actual basis. Why couldn't it continue to rent the same machine at the same rental? A. Well, first of all, I think that Mr. Johnson explained this in some detail yesterday, but I think there is probably a misunderstanding on your part. Where you have joint operation of certain types of equipment, naturally the cost spread over a greater number of customers is going

to be less. Now, when we set up a system to do the billing for Mystic Valley, there are certain units of equipment that have got to be available to do the job, but they will not be turning out as many bills as previously.

XQ. Will you be using the same machines? A. No. Actually in setting up the Mystic Valley IBM rental equipment we changed the equipment. We reduced the amount of equipment necessary, but the overall total cost of the rental of this reduced number of pieces of equipment is still greater than a pro rata share of more equipment.

Mr. Nowlin: May we go off the record just a moment, Mr. Examiner?

[2017] Hearing Examiner: Yes, we will go off the record.

(Discussion off the record)

By Mr. Nowlin:

XQ. We are still on page 445, Mr. Simes. Will you explain the paragraph there relating to the service school, and tell us whether the combined operation would have any effect on the situation? A. In the present system under the gas division there is a service school for training utilization and customer service men. In fact, I don't think that is its only function. It is quite a broad educational process for the employees in the utilization and distribution. The cost of that service school was spread among the eight gas companies. Now, under combined operation we have put the service school back into existence.

XQ. And are the costs of running that service school allocated among the eight companies? A. Yes, sir.

XQ. Now, will you drop down to the next paragraph regarding transportation of the gas division, and explain that one? A. The transportation costs of the gas division in going out in performance of their duties to the various companies—that is gas division personnel—going out to perform their duties in the companies, such as Central

Massachusetts, all of the eight gas companies, is chargeable directly to the companies for whom they are doing a particular job.

[2018] In the case of Mystic Valley we decided that it was the only company of such size to warrant a service school, which is the reference here in the last sentence, whereas they shared in the cost of that school in 1958 with the eight other gas companies.

On the air conditioning expense I don't recall just exactly where that was.

XQ. Do you know whether or not the Gas Division has air conditioning expenses that are allocated out to the other gas companies? A. Air conditioning expenses?

XQ. The \$1200 item shown here in the paragraph?  
A. What was the question again.

Mr. Nowlin: Read the question.

(The pending question was read by the reporter.)

The Witness: No, sir.

Hearing Examiner: You don't know?

The Witness: No, they are not all allocated out to the other companies.

By Mr. Nowlin:

XQ. Do you know what this air conditioning expense of \$1200 is? A. Well, as I mentioned before, I do not recall just what that particular air conditioning expense of \$1200 is.

XQ. Now, at the top of page 446 will you explain the [2019] estimated \$135,000 of cost for furniture and so forth, which gives rise to the annual depreciation item of \$7,000? A. This is primarily cost of additional desk requirements, tables, chairs, office furniture and equipment, that Mystic Valley would require under independent operation, a total of \$115,000 approximately for office furniture, and another approximately \$19,000 for garage equipment,

to bring us through a total of \$135,000 for which annual depreciation was taken at \$7,000.

XQ. Doesn't Mystic own its own office equipment that it is using? A. We are providing additional staff. Under independent operation we have increased the executive and administrative personnel. We have lost the use of joint—in fact, this office furniture and equipment applies to all of the additional personnel that are required for all of the functions.

XQ. Of Mystic? A. Yes, of Mystic alone.

XQ. Does any portion of this \$135,000 represent the loss of joint services? A. Well, where you had one employee working jointly for Suburban and Mystic and he had to be replaced by an employee for Mystic in new quarters, he is going to require a desk, and this is in line with all of the personnel changes that we have made under independent operation.

[2020] XQ. What desk was he using before the proposed severance? A. If it was Suburban's desk, that stayed with Suburban. If it was a desk owned by Mystic Valley, we took that over. What I am speaking of, the \$135,000 is additional office furniture and equipment required by the increased personnel.

Hearing Examiner: Mr. Nowlin, has the value of a desk any real significance in a proposition of this sort?

Mr. Nowlin: It certainly does.

Hearing Examiner: I can't see it.

Mr. Nowlin: \$135,000 is a big item.

Hearing Examiner: We were talking about one desk, and awhile back we were talking about an item of \$1200.

Mr. Nowlin: It isn't the item, Mr. Examiner; it is the testing of the validity of these projections that we are after.

Hearing Examiner: All right. Go ahead.

Mr. Nowlin: These are used as examples of several other items that are questioned.

By Mr. Nowlin:

XQ. Dropping down to the next paragraph relating to cross billings. Can you tell us what these cross billings are and how they arise?

Mr. Vorenberg: You are talking about the second full paragraph?

Mr. Nowlin: Yes.

[2021] The Witness: This in the case of display expense is to the amount of \$1,700.

By Mr. Nowlin:

XQ. No, Mr. Simes, I am down to the next paragraph, "The billings covering miscellaneous services of personnel in 1958 was not eliminated." Do you find that. I want to know about the cross billings and how they arise.

Mr. Quarles: Could we have a brief recess at this point?

Hearing Examiner: Yes, we will have a short recess.  
(Whereupon, a short recess was taken.)

Hearing Examiner: Let us come to order.

Mr. Nowlin: Would you read the question, please?

(The pending question was read by the reporter.)

The Witness: These miscellaneous services of personnel are a combination of many, many small items which are billed by one company to another company for services which an employee on its payroll may do for one of the other companies. Now, this is common practice in combined electric-gas operations. If you have a particular individual in the gas department who happens to be available or knows something of a special nature which is for the moment required by the electric department, they don't have someone sent up to do that. They will borrow him from the gas department.

Another thing that occurs to me is the question of

[2022] in time of emergency you will use your people if there is an emergency in the electric system, you will use your gas people, if necessary, or vice versa. This is the nature of this type of cross billing, where they are primarily services of personnel.

XQ. Were these cross billing costs carried over into the combined eight company operations? A. No, sir, they have been eliminated.

XQ. Now, will you turn to Respondent's Exhibit 105 and the supplementary Schedule No. 6, the miscellaneous item reflected thereunder aggregating a total of \$25,300 for operating expenses. Can you tell us what this holder and gas plant maintenance service item of \$10,000 covers? A. The holder and gas plant maintenance service is of the nature of that provided for, as I mentioned previously, by the construction division of the service company. We did think that in independent operation there is a need for it, but we didn't think any of the companies of themselves could afford to hire two specialized people of this nature. On the combined operation again we would be able to move them around among all eight gas companies to provide specific work on gas holders.

XQ. Now, is this \$10,000 cost intended to represent the cost of obtaining services of outside people or cost of service to the employees of the eight combined companies? A. In this instance of the holder and gas maintenance [2023] services these would be employees of the combined operation.

XQ. Do you mean by that that this \$10,000 is the estimated cost of the salaries that would be paid to employees who are not included in the combined operations? A. That are not included in the pro forma payroll, that is correct, sir.

XQ. Now, if you look at page 226 of 58-A, along in the middle of the page there, you notice meter records of the

company were maintained by personnel on the Merrimac payroll. What charge, if any, was made by Merrimac to Lawrence for this service?

Mr. Vorenberg: I believe this is the area, Mr. Nowlin, that Mr. Johnson testified in. I am not saying that Mr. Simes is unable to answer it, but I think it should be understood that this is the area which Mr. Johnson indicated was in his special field. I don't know if you asked him this particular question. I just thought I should state that.

The Witness: I am trying to recall, Mr. Nowlin, this one specific detail that you have picked out here. The meter records of the company were maintained by clerical personnel on the Merrimac payroll. Whether that was handled on the cross billing basis or whether it was handled on an off-set basis, I am not sure. I don't recall. I know that in this case, as it is stated here clearly, we had to provide additional personnel to take care of this function which [2024] previously had been done by the electric company, Merrimac in this instance.

XQ. Look at page 623 of Exhibit 58-A. I think it is the first paragraph on the production distribution there, it shows the addition of a service record clerk at a cost of \$4,700 to handle duties performed by an employee of Northampton Electric. The next paragraph also shows a thousand dollar expense for telephone service to handle calls heretofore handled by operators of the electrical company. Apparently no charges were made to Northampton Gas for these services. Why? A. Well, as I said before, in this instance, again, in this particular detail, I am not sure whether there was a cross billing from the electric company to the gas company or whether it was done on the basis of payroll offset.

XQ. If there were cross billing it would be an offset credit to this \$4,700 item, wouldn't it? A. That is correct, sir.

[2025] XQ. Will you turn to Exhibit 104, at the third page, the column under "Production". Total-independent operation, 44,600; Combined operation, \$22,500.

Can you show us in any of the exhibits prepared by Ebasco, the discussion of this particular item, and the breakdown thereof?

Mr. Vorenberg: Mr. Simes, I just raise this as a question. This seems to me to relate to a distribution of accounts in accordance with the NEES uniform system of accounting, as applied by NEES. Again, I am not sure that Mr. Simes is the best person to provide that material to you. I think we have to keep in mind the breadth of the study here and the fact that different witnesses covered different areas and what we want to do is to be as helpful as we can but I think there is an advantage in having the right information come from the right people.

Mr. Gishman: Is this figure of \$22,500—

Mr. Vorenberg: Is this off the record?

Hearing Examiner: Let him ask the question on the record. Go ahead, ask your question.

Are you directing it to Mr. Vorenberg?

Mr. Gishman: Shall I ask the question?

Hearing Examiner: Yes.

Mr. Gishman: Is this figure of \$22,500 that we have been referring to, a part of this increase of \$45,200 [2026] appearing on page 40 of Exhibit 91?

The Witness: Let me state it another way, which will answer your question.

That the \$45,200 increase in production, distribution, utilization and garage expenses that is shown on page 40 of Exhibit 91 and which is further explained on page three of Exhibit 105, did include amounts which would be chargeable to the production, distribution, utilization accounts of the uniform system of accounting of the Massachusetts DPU.

Does that answer your question? That part?

Mr. Gishman: Yes. To that extent. Can you tell us what part of this \$45,200 appearing on page three, Exhibit 105, refers to production as distinguished from the distribution, utilization, and garage?

The Witness: Yes, sir. I can tell you that. I don't know whether I have the details right here or not but since we had to build this up on that basis, the production, distribution, utilization are separate items.

Mr. Gishman: Well, would that figure that I just asked you for be this 22,500 figure that we have been looking at on Exhibit 104?

The Witness: Would which figure?

Mr. Gishman: Would the portion of this \$45,200—do you see that?

[2027] The Witness: Yes.

Mr. Gishman: I asked you whether you knew what portion of that is applicable to production and then I asked you further whether that portion would not be the \$22,500 appearing on Exhibit 104?

The Witness: Well, again, I say that the \$45,200 is made up of specific production, distribution, utilization items—the spread of this Exhibit 104—I am not particularly certain of whether or not the \$22,500 is the sole production item that is included in there or whether there may have been items spread to A &G, for example, which are included in our production, distribution, utilization.

Mr. Gishman: Thank you, Mr. Simes.

By Mr. Nowlin:

XQ. Now, directing your attention to page six of Respondent's Exhibit 105 which reflects a breakdown of professional services, can you tell me why in each case the cost for the independent audits increased pro forma as against actual? A. In reference to these independent audit figures that appear on page six, we knew from the

nature of the audit staff that we were establishing in the central organization that they would not be able to perform the extent of audit service that is provided by the service [2028] company. Therefore, just as we did in the independent company situation, we contacted independent auditors to obtain from them an estimate of what the cost would be to audit these individual companies.

XQ. Did you, therefore, assume on a separated pro forma basis, that they would need the extensive audits that are now done by the service company? A. My assumption was that, based on the audit staff which we have provided in our executive, administrative personnel, which I knew was less than what was provided by the service company for general auditing—as I said before, we requested of the outside auditors, an estimate. We gave them the outline of what we were going to do and what we were going to provide and said in that instance, will there be any change in your scope of your work over what you had in "Actual", and these figures on page six, for each of the gas companies, including the central organization, is the result of that request.

XQ. Of your actual cost, \$12,700, who performed these audits? A. The auditing firm is Lybrand, Ross, and—

Hearing Examiner: And Montgomery.

The Witness: Thank you, sir.

XQ. Now, are these costs, actual costs allocated to the gas companies as part of a larger overall cost of [2029] auditing services? A. No, this auditing firm bills each company directly.

XQ. And the costs of such audits are not based, then, on their doing an overall system audit? A. Oh, no.

XQ. Now, is the increase for Central Massachusetts on a pro forma basis over that of actual, is that due to the fact that there is less general auditing on a pro forma basis than on an actual basis? A. Well, I want to clarify the use

of the word "less general auditing". It is rather difficult to state it in that term.

The general audit under our combined operation is not as extensive. The reason I questioned the word "less" is that what they are going to audit, they are going to audit in just as much detail. It won't be as extensive as it would be under the service company.

XQ. Now, as I understand it, Lybrand, Ross and Montgomery charged \$1600 to Central Massachusetts for an audit on an actual basis. A. Yes.

XQ. You estimate that they charge \$2500 for that audit on a pro forma basis? A. Yes, sir.

XQ. Why is there that increase? [2030] A. The increase will be due to the general audit which we have provided for in our central organization, not being as extensive as the internal audit, provided by the service company.

Now, you will notice in the independent companies, that the increase in auditing services is appreciably more than the \$900 that we have here. That is because Central Massachusetts has no internal audit at all.

We did not think a company of that size could afford an internal audit.

XQ. Now, we also note that the pro forma audit for Mystic is smaller than that of any other company except the Norwood. How do you explain this difference? A. You will find that difference in the setup, in the Treasury organization, in Mystic Valley. You realize I am sure, that the internal audit function is not simply a function of the traveling auditor, as we call them; there is work that has to be prepared and gotten ready by your company treasury organizations.

Now, where you have an organization that can assist in that sort of work, we took advantage of that and we mentioned it to Lybrand and Ross when they were preparing their estimates. The result is that they figured they would

not need as extensive—or rather, the increased cost would not be as great in the case of Mystic Valley.

[2031] XQ. We also note that among the pro forma audit costs, is an item of \$3,000 for the central organization. Why is such an audit necessary in view of the fact that no similar audit is indicated in this record for the present gas division? A. Our central organization is a completely different setup from the gas division. Am I understanding you correctly?

XQ. I am asking you why is there this charge for central organization when there is no present audit charge for the gas division organization? A. Well, here we are talking about, under the combined operation. We never specified the type of corporate form, but here we do have some form holding these companies together. This is not the case in the gas division but in the case of these, for example, the holding company, the top New England system, that is audited.

XQ. Well, why is the pro forma audit cost for the central organization larger than it is for any of the other eight companies? A. Well, the central organization is the one that is going to be—again, not having a specific corporate form in mind—but the central organization is the one that is going to be responsible for this top organization it is financing; its capitalization; whatever is the type of [2039] corporate form, there is going to have to be some books kept for this organization, and it is the group that is over the whole eight gas companies. It does not seem unreasonable to me that the audit costs would be greater.

XQ. Well, would the central organization staff be greater than that of the local organization of Wachusett? A. Mr. Nowlin, I have a little difficulty with the question. You don't audit a staff.

XQ. Now, you audit the performances of the staff. You have a big staff. Ordinarily, they must be doing some work.

A. You don't audit the performances sir. You are auditing the books of the company.

XQ. Well, let me put it around the other way.

Is the business of the central organization subject to audit as great as that of Mystic Valley which is the largest gas company among the group? A. Yes, sir.

XQ. Does that account for the reason why the audit costs of the central organization is greater than it is for Mystic Valley? A. I don't think there is any question about it. Here, as I said before, it is the auditing of the top organization—whatever form it is, it is holding together these eight companies. Their books have to be audited. Now, [2033] this is a more complicated situation than one operating company.

XQ. Then, you are in effect saying, as I understand it, that the function of the central organization is going to be more extensive? A. No, sir. Not the functions. We don't audit the staff. We don't audit the personnel.

XQ. I am not talking about staff. A. We audit the books.

XQ. I am talking about functions, not staff. A. Well, I don't know that you can say that.

XQ. Let me ask more specifically what you are going to audit the central organization for? What particular aspect of its business are you going to audit them for? A. You are going to audit all of the books.

XQ. You are going to do what? A. You are going to audit all of its books.

XQ. What do those books consist of? A. Well, again, without having a specific corporate form in mind there is, to my mind, no question but what the central organization has got to maintain a set of books for its operations, its financial operations.

I am a little lost.

XQ. Would the set of books for the central organization

be as extensive as those of Mystic Valley? [2034] A. They could be more extensive.

XQ. Well, how could you get an estimate of the amount of the cost to audit the central organization if you did not know what books you were going to have? A. This, as I said, was in discussion with the outside auditors to obtain an estimate from them in which we stipulated the situation.

Here is a type of organization which may or may not be similar to the NEES situation. We don't know what corporate form it will have but unquestionably, it is going to be required to keep a set of books.

These are going to have to be audited by the outside auditors.

Now, giving them that set of stipulations, they came up with this estimate of \$3,000 for that type of work.

XQ. Well then, as to the estimates for the other eight gas companies, they had an actual operation? They knew what their party was going to cover in those cases, did they not? A. Yes, sir. From having audited these companies previously but again we had to make the stipulation of what kind of staff we were going to provide in the central organization to perform the internal audit. The internal audit has a great deal to do with the extent of the [2035] outside auditor's work.

XQ. Did the auditors have any idea as to the books they were going to have to audit from the central organization at the time they estimated this cost of \$3,000? A. Well, I certainly believe so.

XQ. Did you supply them with any information as to the type and character of the books that the central organization was expected to keep? A. Well, I hardly think that is necessary. Again, as I say, we are dealing with professional people in this field. We have a set of stipulations for them. We ask them what, in their estimate, the cost would be.

XQ. Now, turning to the independent audit, how did you determine the space requirements for the combined gas companies? A. In regard to the combined operation, we had already made an estimate of the space requirements for the independent companies. In going from the independent companies to the combined operation, we could deduct the space requirements that we had set up previously for the top staff of the independent companies. Then we had to provide space requirements for our central organization.

XQ. Can you tell me, at the present time, where does the central organization, present gas division, rather, have its offices? Are they separate from Mystic and [2036] Suburban? A. No, sir. They are in the same general office in Malden.

XQ. In other words, the gas division and Mystic and Suburban all occupy the same office building in Malden, is that correct? A. That is correct.

XQ. In determining the space requirements for these independent companies, was it your objective to obtain equal or better space in related facilities than that presently used? A. It was not a consideration of the space or the location that they presently had on the joint operation. We started from the standpoint of what space we need to staff it—I am sorry. What space we needed to house the staff and the various functions that were going to be performed on an independent basis.

XQ. Did you make any independent appraisal of the space requirements of the combined gas companies, upon separation from the NEES system? A. For the central organization, I made a separate evaluation of the space required to house the staff of the central organization. As I just mentioned previously, in the case of the eight companies, we did it by subtracting the space no longer re-

quired for the top [2037] echelon of the independent companies.

XQ. Does the present gas division now pay rent to anyone for space that it now occupies? A. At the present time, the space occupied by the gas division in the Malden office, which is owned by Suburban, there is a rental paid to Suburban by the Mystic Valley Gas Company. That is for the entire space of the Gas Division and Mystic Valley operations, in that Malden office.

XQ. Does the rental cost paid by Mystic Valley include the cost for the space occupied by the gas division? A. That is correct.

XQ. I think page nine of your Exhibit 91 indicates that the central organization will employ 62 persons. Is that correct? A. That is correct, sir.

XQ. How does this number of personnel compare with the personnel of the present gas division? A. There is no comparison.

XQ. Would you know the number of gas division employees? A. Well, the gas division, as we mentioned previously, has 23 employees.

[2038] XQ. Turning to Lynn— A. I would like to add one thing. As I started to say in the beginning, that there was no comparison, I would like to point out that the 62 people that we have in the executive, administrative group of the central organization is not at all comparable to the 23 people we have in the gas division. The gas division is only a part of the service which is supplied to the eight gas companies who have all the services that are provided by the service company, some of which, as we have gone through all day here, some of which functions have got to be performed by staff in the executive and administrative personnel, of the combined central organization, and I think if you compare the total overall organization, you got to remember also the District Treasury personnel,

who were not included in the gas division. Those functions we are replacing with the 62 people. When you compare the total administrative and executive personnel of our combined operation with the personnel of the gas division, the District Treasury, the local organization, you come up with a total of 97 people as compared with our total organization of 109 people.

This is still exclusive of the functions performed by the New England Power Service Company.

[2039] XQ. Well, now, what do you propose to do with the building that is now jointly occupied by Suburban gas division, and Mystic? A. That is a building that is now jointly occupied by Suburban Electric Company. In the case of severance, we have assumed that the gas division and Mystic Valley Gas Company will vacate that property. If that space is made available, we assumed that approximately 9100 square feet could be rented out by Suburban Electric.

XQ. Would it be more economical for the central organization of the combined companies, and Mystic, to stay in that building and have Suburban move out? A. Suburban owns it.

XQ. Well, does not NEES own both Suburban and Mystic? A. Well, we are talking under the situation of the possibility of severance of the gas company.

XQ. I know that, but is it possible for NEES to, if there is a substantial economy that could be effected by the two gas operations staying in the building, and moving the Suburban company. Could not NEES effectuate that change? A. Well, I am not sure that I follow you but do you mean would NEES sell the building to the gas company or something of that sort?

XQ. Well, either sell it or lease it. Did you give [2040] any consideration to that possibility? A. We have considered—I will state the basic assumption that we start at,

from this entire space requirement situation. That in the case where the electric company owned property, the electric company would stay there; the gas companies would move. In the case of properties that were owned by the gas companies, the gas company stayed there; the electric companies moved. I think I stated that in all my direct testimony, originally.

XQ. So that you did not make a study of any basic economy that could be effected by re-arrangements—perhaps moving, we will say, Suburban out of the building, and leaving it to the gas companies, rather than moving the gas companies out and leaving it to Suburban? You assume there is an arbitrary point where the electric company owns the company, they will stay; and where the gas companies own the property, they will stay?

Is that correct? A. That is the initial assumption. When you say did we examine any alternative possibilities, we examined every alternative that was available with the possible exception of any gas company staying in electric company property or any electric company staying in gas company property.

[2040a] There we broke clean.

XQ. Where did you assume that the central organization would be located? Malden or some other place? A. We did not make an assumption as to location. We determined the space requirements of the central organization. Again, because of not knowing what type of form or organization this would take, it was conceivable they might be better situated in Boston. They might be better situated in Malden. They might be better situated somewhere in a point centrally located, geographically among the eight companies. This we did not take into consideration. We determined the space requirements; we priced out those space requirements on the basis of our average square foot rental.

XQ. Was there not substantial variances in the per foot rental charges in different areas in the gas company's territory? A. Rentals for what?

XQ. I think you assumed \$2.00 a foot rental cost plus 75 cents for facilities. A. That is correct.

XQ. Would it make a difference to central organizations from the viewpoint of rental cost, as to where it was located? A. Certainly, if it were rented in Boston, it would pay appreciably more than the \$2.00 per foot. I believe [2041] also, if they were located—I am recalling now my rental figures—if they were located anywhere within the Boston area, they probably would pay higher than \$2.00 per square foot figure but again, in a projection of this type, and going back to what I explained in my direct testimony, in a projection of this type, I thought it more appropriate to use an average system wide basis.

XQ. Isn't it a fact, Mr. Simes, if the central organization in Malden were to stay in the present building, that they are in, that their pro forma cost would be less than they are, in that their pro forma cost would be less than they are under your estimates. A. I cannot make that assumption unless I know what they would have to pay for the building from NEES. They would have to buy it or lease it.

XQ. Do you know what rent they pay now? A. The rental Suburban Electric receives for the space that is occupied by Mystic Valley in the gas division is \$72,000 a year.

XQ. Isn't that based upon cost plus six percent return on investment to Suburban? A. Would you repeat the factor?

XQ. Does not the rental which Mystic pays to Suburban, reflect really, the cost of maintaining and depreciating and operating the building, at least their [2042] share of it, together with six percent return on capital invested in the

building? A. I would say that is generally correct. Yes, sir.

XQ. Well, I think you just mentioned \$72,000 rental paid by Mystic and page 443 of Exhibit 58-A indicates seven-eight-five. Would you tell us which is correct? A. Well, in our discussion of the general office building over in Malden, we were talking just that, and for that space in the Malden office, \$72,000 is paid. The figure that you are referring to includes other rentals.

XQ. I see. Do you know whether or not the central organization together with Mystic could finance the purchase of the building from Suburban at an interest cost less than six percent? A. No, sir. I do not know, and I could not venture to guess.

XQ. Assuming that the central organization and Mystic were to continue their joint arrangements on a pro forma combined basis, would that reduce the rental costs as compared with those projected by you? A. No, sir.

XQ. Let's turn again to Lynn. As I understand it, the Lynn Gas Department and the Lynn Electric Department occupy an office building. On severance, the electric company would move out and no space would be available for rent to outsiders.

[2043] Is that correct?

I think that was taken from page 345 of Exhibit 58-A. With the exception of the space that is mentioned here, in 345, that was rented to outsiders; that would continue to be rented under our pro forma setup.

XQ. And the electric department would move out?  
A. That is correct, sir.

XQ. Now, again, on page 345, it says, upon severance the separate electric companies would abandon these facilities and obtain space elsewhere. No space could be made available for rental to outsiders.

Why could not space be made available? A. Well, you

would have to see this particular building, Mr. Nowlin, to appreciate what I am going to say.

The internal shape of the building has a well that extends from the first floor to the top floor and you have a corridor around this well, on each floor, with offices off of these corridors. You have an elevator that holds about two people at a time. In my opinion, particularly with the rental situation in Lynn, you would not be able to rent any of that space vacated by the electric company. This was the basis of my not reducing the cost, due to a possible rental to outsiders.

In my opinion, you could not rent any of that space [2044] to an outside, commercial firm.

XQ. Well now, what portion of that building is now occupied by the electric part? A. Well, on the first floor, they have joint merchandise display. Also, on the first floor, of course, there is the joint commercial operations. Cashiering, for example. The credit department is on the first floor, which is jointly operated by electric and gas.

On the second floor, we have a conference room, which is used jointly by the electric and gas company. We have various offices, rooms. We have a power billing office, which is used exclusively for electric. All of the other space is on a joint occupancy basis, except for the executive heads of the Lynn Gas and the Lynn Electric company.

On the third floor, you have accounting departments. Your payroll department, which again is under joint operation, is jointly used.

XQ. I believe on page 345, it indicates that the electric company is now paying rent of \$40,600 per annum. What did you estimate the rental expense of the electric department would be upon moving out? A. I think the answer can be found on page 928 of 58-B. Total annual rental cost of \$38,000.

XQ. Now, then, Mr. Simes, why is it necessary for [2045]

the electric department to vacate their portion of the building, after severance? A. This building on Exchange Street in Lynn, that they are currently occupying now?

XQ. Yes. A. Well, Mr. Nowlin, in my opinion, the independent gas company or the independent electric company would certainly not want to share the same quarters. At the present time, they are under the same NEES system, but as independent companies, I just cannot believe—I don't know ever, in my experience, where they have stayed together.

XQ. Is there any reason why they could not continue to share the joint building? They would jointly share the building. A. Yes. I don't believe that it would be desirable; if I were the head of the gas company, I would not want the electric group in there having access to possibly papers which may be of a confidential nature.

Here, we are talking about two separate corporate entities. I just cannot visualize their living together.

XQ. Cannot the gas and electric have separate floors of the building allocated for their own use? A. Since the gas company owns that building, I would see where they would take the first floor for their [2046] appliance display.

XQ. Well, do you know whether or not there is a great deal of appliance sales accomplished by the electric department? A. Are you speaking of direct floor sales?

XQ. I am assuming the joint situation there—it may be the point that you raised in de minimus. A. Well, it certainly is not from the standpoint of the purpose of a display floor for people to see it. This is a promotional rather than a direct sales effort.

XQ. Is this the only reason why they would not remain together? A. No, sir. I used this as an example. As I mentioned before, there are other reasons. If I headed up a separate gas company, I would not want the electric company sharing my quarters.

XQ. I agree with you on the quarters. How about the building? A. I would not want them sharing the building. I don't see, again, as I explained this office building to you, or tried to help you visualize it, the only way that there would be a sharing of it would be to, in the one instance that I mentioned, where you put an appliance display up on the second floor or something. So far as sharing the office quarters, there would be again the problem of a [2047] large office.

We will take, for example, the accounting functions. You could not get them, first of all, in that building as it stands right now. There are two separate accounting groups—general accounting and customer accounting groups. You just could not fit it in there. The only reason you do it now is because it is a joint operation.

XQ. Rather than lose the annual rent of \$38,000 a year, would it not be possible for the gas company to do some remodeling and maybe make some additions, rather than to lose the tenant? A. As I said, from the standpoint of a gas company, that is one tenant I would not want.

XQ. Mr. Simes, is there anything unusual about non-affiliated companies occupying space in the same office building? Isn't that done all over the United States? A. I honestly don't know of any.

XQ. Well, do you know of the Empire State Building? They have plenty of people occupying the same building who are not affiliated? A. The analogy of the Empire Building to the building on Exchange Street in Lynn, is quite far fetched.

XQ. That is the first building that came in mind. I can take some local building here, all in the same category, were you find non-affiliated companies occupying [2048] the same building. There is nothing unusual about that, is there? A. Insofar as the use of quarters in a building

such as you say, where you either have an entirely isolated floor or possibly, isolated rooms, and you are talking about situations where the people have not intermingled before, as they have here, there might be some merit to it but not in this instance, where you got, as I say, number one, you don't have sufficient space for the two of them to operate on an independent basis.

Number two, the gas company or the electric company in any of the instances we have looked at, it is my belief that they would not want to be living together; that they could not live together.

XQ. Regardless of the condition of the building? A. I would say absolutely no, regardless if it were a brand new building, they would not share the quarters. I don't know of any cases where they do have an electric company and a gas company in the same operating area, sharing the same building for all of their functions—all of their general office functions.

Mr. Vorenberg: You are talking about sharing a building. Do you mean sharing the same space?

Mr. Nowlin: No. No. What I can see here, my rough computation is that \$38,000 rental is equivalent [2049] to six percent of a \$650,000 investment; rather than lose the \$38,000 rental, it would seem practical for me—for the gas company—to consider very seriously renovating or making additions to the building, or putting it in a condition that it can get some rental income out of it, rather than lose the \$38,000.

Mr. Vorenberg: I was under the impression that Mr. Simes said it would not be possible to remodel the building. Then you went back and talking about sharing.

Mr. Nowlin: I did not understand Mr. Simes to say it would not be possible to remodel or alter the building.

The Witness: I don't know whether I said it was not possible to remodel, or intimated it. The problem is, when

I started to explain the building to you, there is not anything you can do with it.

XQ. Well, do you know the value of the building as it stands today? A. No, sir. I don't have that figure available. No. I do not.

XQ. Would it be anything like \$650,000? A. I have no idea, sir.

XQ. Well, how much, Mr. Simes, would the gas department of Lynn have to pay for rental space in the event it decided to move from the building? [2050] A. In making my estimates of rental costs and space requirements, I took into consideration the possibility of moving out of existing quarters into other quarters. In fact, I know where there are cases where I deemed it economical to do so. That is exactly what I did.

Now, in this case, my recollection is that in examining the alternatives available to Lynn Gas Company, it would be more expensive for them to go outside and rent the space than to stay where they were.

XQ. Well, on the basis of your computation, what would the space actually cost Lynn Gas if it moved out? A. I cannot find that figure among my papers, Mr. Nowlin.

XQ. Well, if the gas company were to move out, Mr. Simes, would it need to rent as much space as does the Lynn Electric Department? A. Would it need to rent as much space? It would need to rent more space.

XQ. Why? A. We have an organization for the Lynn Gas Company completely on its own, and its space requirements for the independent operation, for the staffing of that independent operation, would be greater than the space requirements for [2051] Lynn which is still part of the NEES system and has certain functions performed by the service company, for example, or operations—rather, joint operations within the electric side of the system.

XQ. Well now, according to our computations, the elec-

tric department has several thousand more customers than the gas department. Is that correct? A. I believe that is correct, Mr. Nowlin. I was just checking to see what the exact figure was.

XQ. Well now, do you know how many employees you have projected for the Lynn Gas department on a combined basis? A. Are we talking combined basis or independent basis?

XQ. Combined basis. A. On the basis of the combined operation, I did not realize you were talking from that standpoint. I thought we were still on this independent operation, and when I spoke before of the requirements of—space requirements for the staffing of the Lynn Gas Company, as an independent gas company, that would be different from what you are looking at under the combined operation.

XQ. Let's just stick to the combined operation. A. Very well, sir.

XQ. My colleague said, on page 22 of Exhibit 91, we have 234 employees projected for Lynn Gas. [2052] A. That is correct.

XQ. How many do you have projected for Lynn Electric on the separation? A. Now, realize we are talking about general office space, and have to now make some segregation of people who are rating out in the street; people who are operating—distribution employees, for example; people who are working in production plants. The comparison of total employees is impossible from the standpoint of space requirements.

XQ. Well, can you tell us the number—the amount of space that the electric department now occupies in the building and the amount of space that the gas company now occupies in the building? A. That was the figure that I was talking about before. A said, when I had made this computation originally and

for the Lynn Gas Company, in the event of severance, if it were more economical for them to move out, rather than stay in the same building, and that is the figure which I explained a few minutes ago, I did not have available right now.

Mr. Nowlin: Well, Mr. Examiner, I would suggest that Mr. Simes obtain this information and we can take this subject up again on Monday; therefore, we could recess now.

[2053] Hearing Examiner: All right. Shall we assemble at 9:30 or 10:00 o'clock? Which is most convenient?

I can be here either hour.

Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

We will recess at this point, until 10:00 o'clock, Monday morning.

(Whereupon, at 4:45 o'clock, p.m., the hearing was adjourned until Monday, April 10, 1961, at 10:00 o'clock, a.m.)

#### PROCEEDINGS

[2055] Hearing Examiner: Let us come to order, gentlemen.

JAMES F. SIMES

was recalled as a witness, was examined and testified as follows:

#### *Cross Examination—Cont'd.*

By Mr. Nowlin:

XQ. I think, near the close of the last session, we were talking about the Lynn gas and electric building? A. Yes, sir.

XQ. Do you know what the carrying value of the office building is on Lynn gas's books? A. I believe, Mr. Nowlin,

the book value is approximately \$300,000. It is two hundred ninety-nine, something. I haven't got the exact figure, but it is approximately \$300,000.

XQ. Is that after or before the depreciation? A. That is the original cost, as I recall.

XQ. You don't know what the net carrying is? A. No, sir. I don't.

XQ. Do you know what the total operating expenses of the Lynn building was for 1958? A. When we are speaking of the Lynn building, we are speaking of the group of buildings at 90 Exchange Street as the general office and display building, the carriage house in the back [2056] which is used for gas utilization and the garage and the next door building which they call Prichard Hall and all of those are jointly occupied by the gas and electric. This is separate from the buildings that are jointly used at the Lynn weigh plant and the total operating cost on that was approximately \$55,000 per year.

XQ. How much of that was paid by the Electric Department? A. \$34,000 approximately.

XQ. Do you know the number of square feet of space used by the Electric Department and the same for the gas? A. Again, speaking of these integrated buildings?

XQ. Yes, that is right. A. It was 17,000 square feet for the gas, 14,000 square feet for the electric, and the breakdown of that would be in the general office and display building itself, approximately 6,000 for the gas and 11,000 for the electric and the operating expenses for that building, as a part of the \$55,000 figure I gave you before, was \$47,000. The carriage house in the rear has two floors. The first floor is a garage of about 4,000 square feet of space and the total charges of operating that building—let me finish, the first floor was 5,000 square feet and the second 6,000 square feet. The second floor was completely used by the utilization group of the Gas Department. There was

no electric use there. The first floor of the garage was split, [2057] 4,000 for gas and 1,000 for electric based on the car usage of the garage and the total cost of operating that building was \$8100 of which \$7600 was gas and \$500 was electric. Now, in Prichard Hall, the first floor was rented out to outside tenants at the rent of approximately \$3200. The second floor was split fifty-fifty between the electric and gas. The total of 3,000 square feet in the second floor—1500 to gas and 1500 to electric. The total operating cost of the second floor, only, excluding the outside rental portion, was \$3200, which again, was split, 1600 gas, 1600 electric, based on the use, so the figures I gave you of the three components of the group—\$47,000, that included a general office building and display area; \$8100 for the carriage house, \$3200 for Prichard Hall, minus the rental they received from outside tenants of \$3200, which gives a total of \$55,000 which I gave you before.

XQ. Is the 14,000 square feet of the space for the electric that you referred to, the space they are paying \$34,000 per annum for? A. That is correct, sir.

XQ. Upon what basis was the \$55,000 of cost allocated as between the gas and electric? A. Perhaps I went through that too fast. I thought I had given it to you in the breakdown of figures. As I said, so far as the general office and display room is concerned that space was approximately \$6,000 and \$11,000—I am sorry, [2058] I mis-spoke. 6,000 square feet and 11,000 square feet. The total operating cost of that particular area—

XQ. Which is which? A. 6,000 gas and 11,000 electric. That total area—the cost of operating that total area was \$47,000 which was split, \$15,000 gas, \$32,000 electric, which was the use basis. Now, when we go to the carriage house, the cost of operating that building was \$8,100. The space used there, the second floor 6,000 square feet totally, used by the gas. The first floor of the total 5,000—4,000 used by

gas, 1,000 used by electric, so of the total of 11,000 square feet in that building, 10,000 was used by gas, 1,000 by electric, and the split of that cost was \$7600 gas, \$500 electric, of the \$8100 to operate that building. Prichard Hall, the second floor was split fifty-fifty between gas and electric. The cost of operating the building was \$3200, which was split fifty-fifty.

XQ. How was the space used in that building by the electric as compared with the gas? A. It is a jointly used space. It is a cooking school that they both used.

XQ. The basis for allocating the rental cost—the operating cost of this building is the actual footage used by the gas and electric. Is that correct? A. Well, it is not entirely, because in the case of the general office building, again, we have joint employees, which [2059] is almost entirely the case. There is the allocation which runs to a combination of space and a combination of—I believe employees was one of the factors that was in there.

XQ. Now, in projecting your estimated cost of rental for the electric department, assuming it moves out, how many square feet of space did you project on the pro forma combined operation as compared with the number of square feet of space used by the electric department at the present time? A. Well, for office space and store display space—by store, approximately 14,000 square feet which compares roughly with the 11,000 square feet I mentioned before—similar types of space.

XQ. I believe you previously testified that you assume that if the electric moved out, the gas would not be able to rent any of that space. Is that correct? A. That is my opinion, yes, sir.

XQ. Why did you make that assumption? A. Well, may I have the basic question again, before it slips my mind?

(The pending question was read by the reporter).

The Witness: That is correct, and the reason, as I tried

to describe last Friday—you would have to see this building to actually visualize the problems you would have in trying to rent any of the space that would be available. You realize, of course, that with the electric moving out, [2060] and the increased personnel requirements on the gas, because of the loss of joint operation, they would take up quite a bit of the space that the electric was vacating but even—the vacated space—I could not imagine how any of it could be rented. It is not in the heart of town. It has a tiny rickety elevator which will only hold about two people. I mentioned it—I think I used the word "well". I am not sure that is getting the picture across to you. There is a part of the space; I would say it is more than a third of the floor, that is open, with a balcony around it.

By Mr. Nowlin:

XQ. Is that on each floor? A. Yes, sir.

XQ. Did you give any consideration to the location of the central organization for the gas companies in this building? A. No, sir. I did not. As I mentioned before, we don't know what type of corporate form this central organization would be held in and we did not attempt to allocate any particular space. I also mentioned that we determined the space requirements based on the personnel required for the central organization, priced that out on our average rental plus utilities and maintenance cost of \$2.75.

XQ. Wouldn't the most economical arrangement be to locate the central organization in this building? [2061] A. It wouldn't fit.

XQ. What do you mean it wouldn't fit. A. The space requirements of the central organization wouldn't be able to fit within the space that we have left over here after the requirements of the new gas company.

XQ. You mean that there wouldn't be adequate space left for the central organization? A. Yes, sir.

XQ. Couldn't the gas company enlarge or put an addition to the building to house the central gas organization? A. Number 1, it would be impossible to put an addition there is no room for expansion; number 2, I don't believe that structurally that building could be improved to accommodate any additional space. It is a peculiarly constructed building, as I mentioned before.

XQ. How many square feet did you estimate for the central organization per person? A. I didn't do it on an average per person basis. I took the individual requirements, the floor space for the President, Vice-President, and so on, Secretary, the entire organization and I came up with 13,600 square feet as the requirements for the central organization.

XQ. I believe you just previously stated that the electric department of Lynn, now occupies 14,000 square feet of the space of the building? [2062] A. No, sir—11,000 of the building. 1,000 was in the carriage house—in the garage of the carriage house, and 1500, I stated, was in the second floor of Prichard Hall.

XQ. Isn't the available space of the Lynn buildings just about the amount of space that you projected for the central organization? A. But you also have to take into consideration the fact that you are looking at only the 11,000 square feet vacated by the electric. Now, in the end, Lynn Gas Company is going to occupy appreciably more than what they did before.

XQ. Did you make any estimate of the cost of space to the gas department, assuming they were to move out of the building? A. Yes, sir. I did.

XQ. What did that amount to. A. \$59,000.

XQ. How many square feet did you project for the gas department? A. A total of 21,500 which is broken down to 14,000 square feet for general office and display area. The 6,000 square feet they now use for the utilization de-

partment and the carriage house, which they would still require, and the 1500 square feet for the cooking school.

XQ. Didn't you say just a minute ago that you estimated 11,000 square feet for the central organization? [2063]

A. No, sir. 13,600 for the central organization.

XQ. Directing your attention, Mr. Simes, to page 37 of Respondent's Exhibit 91, I notice there you have estimated the central organization would require office space at a cost of \$37,000. Is that correct? A. Yes, sir.

XQ. Now, if they only need 13,000— A. 13,600.

XQ. Yes, 13,600, how do you arrive at the total cost of \$37,000? A. If you multiply the 13,600 by \$2.75 per square foot, you come out to approximately \$37,400, which I ran it off to \$37,000.

XQ. Did you make any study, Mr. Simes, to determine whether or not it would be more economical for the Gas Department to sell its present building and construct a new building? A. Well, as I have mentioned before, Mr. Nowlin, in all of these cases, we have taken what we believe to be every possible alternative into consideration. Again, you would have to see this building, in the location it was in. I don't think they would get anything for it except land, if somebody wanted to make a parking lot out of it. This is after an examination of the building and the area.

XQ. Well, lets assume they were to tear down the building [2064] and construct a new building that would be available for Lynn gas and the central organization. Did you give any consideration to that? A. Yes, in an estimating way. As I have mentioned time and time again, this process of a study of this sort, is a continuing thing of gathering data and formulating judgments. A judgment on the particular thing that you are talking about could be very quickly made. In my judgment, it would be much more costly to do as you suggest.

XQ. Well, as I understand it, you were instructed to

assume, for the purposes of your study, that where the gas companies owned the gas building, they would retain the gas building, and where the electric companies owned the electric building, they would retain the building. Is that correct? A. There is one misunderstanding in that question sir. There were no instructions to me in that regard. I believe, what I stated last week, was, that as a result of our examinations of the situations, the result was that in every instance, it was more economical in the case of an owned building for the party, either electric or gas, whichever owned the building, to remain there. Now, what I did say, and I think this may have lead to the misunderstanding, is that under no circumstances would I consider the two electric and gas, separated companies, living in the same quarters.

[2065] XQ. Well, I had gathered the impression that one of the assumptions you were told to follow in the course of your study, either by the NEES people, or Mr. Quig, was, that where the gas company owned the building, they would stay where they are and where the electric company owned the building, they would stay where they were. Am I incorrect in that part of your testimony? A. Yes, because there were no instructions to me of that type and as I just said, in the examination of various areas, the result was from the economical evaluations—the result was that where an electric company owned the property, it stayed there, the gas moved. Where the gas company owned the property, the gas company stayed there and the electric moved. This was a result.

XQ. Have you made any study, or attempted to ascertain information as to what suitable new offices would cost Lynn? A. If it were built?

XQ. Yes. A. As I mentioned before, this was a judgment evaluation. Now, in the particular case of building costs, again, it was one of those things. You didn't have

to go into a quick evaluation. As I recall the situation on that particular instance, this was a case of contacting my conferees, space experts, in Ebasco services to get an estimate of what it would cost, and didn't put anything down because it was [2066] out of the picture entirely.

XQ. Do you know what figure they gave you, as to the cost of a new building? A. No, sir. I don't recall. As I say, this was a judgment that was made on the spot at the time.

XQ. From your general knowledge, what would the Gas Department have to spend to put up an adequate building for itself and for the central organization? Lets start with the building for itself? A. Well, I am sorry, Mr. Nowlin, but this is not a figure that I keep in the back of my head. To sit down and say what the cost of a new building would be, I repeat what I said before, that this was a judgment made on the basis of available data, and it just didn't compare with the cost of operating here.

XQ. You don't have any idea whether the cost of such a building would run one million or two million or five hundred thousand? A. I wouldn't venture a guess right now.

Hearing Examiner: What size building do either of you have in mind, a one story, or two story, or three story, or are you just talking about a building?

Mr. Nowlin: A building that would be sufficient to house the Gas Department. He knows the number of square feet needed and he is familiar with the land up there, and [2067] it seems to me it wouldn't be too difficult to, at least, estimate the size of the building and the cost to house the Gas Department, exclusive of the land, which you already own.

The Witness: This judgment was made but at this moment, to make a calculation of this type—

Hearing Examiner: I gather from your testimony, it

was just a rough estimate of a building that contained the required number of square feet? Was that all the estimate was, a rough estimate, without any details being assembled?

The Witness: There was no details assembled, no, sir.  
By Mr. Nowlin:

XQ. Well, then, upon the basis of your testimony, we have nothing whatever, do we, to estimate what it would cost to construct a suitable building for the gas department, exclusive of the land? A. You have my statement that the judgment was made at the time and in terms of an estimate of this type, there was no comparison between keeping the building as it presently is, for gas use, as compared with tearing it down and building a whole new structure.

XQ. Do you have any doubt that the gas department of Lynn could finance the cost of constructing such a building?  
A. Are you talking—under an independent operation of gas?

XQ. Under a pro forma combined operation. [2068]  
A. Then, you aren't speaking of Lynn doing the financing?

XQ. Well, I assume, Lynn. A. You are speaking of the combined operation, or Lynn as an independent company?

XQ. Lynn as a part of the combined organization, probably could raise capital, maybe cheaper than the company, by itself? A. It might be a question of being able to raise it at all, I don't know about cheaper. No, I don't think they would have any—I don't know what they would have to pay for the capital. I think they would be able to raise it.

XQ. Do you have any doubt they could obtain the capital to construct this building for less than six percent?

Mr. Vorenberg: Are you talking about a building, just for Lynn, or for Lynn and the combined operation?

Mr. Nowlin: Just for Lynn Gas Department, now.

The Witness: What was the question?

(The pending question was read by the reporter)

Hearing Examiner: By "they", you mean Lynn Gas?

Mr. Nowlin: Yes.

The Witness: Sir, I don't know. It would depend upon the time they were trying to raise the capital, it would depend upon the conditions of the gas companies at that particular instance, it would depend upon the cost of money in the [2069] market at that time. There are many factors. I would say they would probably have to pay somewhere around six percent.

By Mr. Nowlin:

XQ. Do you know what the Metropolitan Life Insurance Company is now charging for funds with which to construct similar office buildings? A. No, sir. I am not.

XQ. You don't know whether or not this building could be constructed on an F.H.A. Guaranteed Mortgage, do you? A. I am not sure, sir.

XQ. Isn't it a fact, Mr. Sime, that an individual, for example, with good credit and owning that land, could himself, borrow the funds from a life insurance company or some of these large insurance companies, at a cost cheaper than six percent, using the land as his equity in the mortgage? A. Mr. Nowlin, I am not sure that you are making a valid comparison in framing the question you put to me. Certainly, you realize in a business enterprise, there are many more factors than what an individual has to contend with when he is going out to get a mortgage. As I mentioned before, one of the things I mentioned, would be the financial condition of those companies at the time of borrowing. There are times when you can't get a loan at all, if you are in bad financial straits.

XQ. Have you given any consideration to the construction [2070] of a new building to house both the Lynn Gas Department and the Central Organization of the combined gas companies? A. No, sir. As I stated before, the central organization was formed for the space requirements of

the personnel that would be required, and those space requirements were assumed to be—to cost an average of \$2.75 per square foot and we did not attempt to locate it in any particular place at all.

XQ. Is there any reason why the central organization could not operate just as well out of the Lynn area, as any other area? A. Yes. I think there are probably very good reasons. Number 1, if you have got—we are talking now, again, the combined operation of eight gas companies. It certainly would seem to me that the central organization—and I am speaking now of the executives who would be responsible for this operation—would not choose a—shall I say—provincial spot like Lynn to put their central organization in. This is going to, when you pick a location for your top executives, it is chosen with great care for public relations reasons, as well as employee relations reasons, operating reasons.

XQ. Well, would you recommend continuation of the central organization at its present location in Malden? A. The central organization is not located in Malden. The gas division is located in Malden.

[2071] XQ. I mean the Gas Division. Would you recommend that as a preferable area to locate the central organization? A. If I had to make a recommendation, I would probably choose the Boston area as being centrally located for the eight gas companies, taking into consideration the fact that the greater amount of business is done on the Eastern side, closer to Boston, than the Western end, with Central Massachusetts, Wachusett, and North Hampton.

XQ. It looks like, Mr. Simes, from the map, that Lynn is probably more centrally located in the service areas of North Shore and Lynn and Mystic, than, even, Malden is. Is that your view of it?

Mr. Dunn: Why don't you identify, for the record, which map you are looking at.

Mr. Nowlin: Respondent's Exhibit No. 51.

Mr. Vorenberg: You might find 66 more helpful in that connection.

Mr. Nowlin: All right. Either one.

Hearing Examiner: Now, read this last question.

(The pending question was read by the reporter).

The Witness: No, sir. It is not. If you were to consider it, shall I say, the Eastern area, which would comprise Mystic Valley Gas Company, Lawrence Gas, Lynn Gas and North Shore Gas—I say, there is no question but considering density, customer's, that Malden is better suited than Lynn.

[2072] XQ. Isn't Lynn nearer the operating territory of these four companies than is Boston? A. Well, as I mentioned before, the consideration in setting up a central organization location, is more than finding an equi-distant space between the operating groups.

XQ. Don't you think it is much more preferable to have the central organization located in the actual operating areas of these companies rather than outside of that area? A. Not always, Mr. Nowlin. I know cases where the central organization—the executive group is located at an entirely different—not even in the operating area of a company.

XQ. Well, anyway, have you made any real study as to where the central organization should be located? A. I have stated before that, not having any corporate basis on which to depend, I have pro formed the space requirement, necessary personnel and determined a cost of that space on an average basis.

XQ. Now, in arriving at your average cost of \$2.00 per square foot, and \$.75 for operating expenses, didn't you run into some wide variations in rental cost in the different

areas served by these gas companies? A. What do you mean by wide variations?

XQ. For instance \$2.00 as an average—what was the spread of that \$2.00 average? [2073] A. It varied from approximately \$1.00 per square foot to around \$5.00 per square foot.

XQ. Could you give us those composit figures for the record? I would like for you to supply the figures and the area from which they were derived so we may get some overall view of just how the \$2.00 figure was arrived at? A. Out in the Central Massachusetts area, Webster South Bridge and Spencer, it ranged from \$1.40 to \$2.00. In Lynn, it ranged from \$1.50 to \$3.15. These are dollars per square foot. In the Beverly and Gloucester area, it ranged from \$2.00 to \$2.50. In the area served by Mystic Valley, which would be Malden and the surrounding towns, it ranged from \$1.00 to \$4.00, and, in one instance, in that area, out in the shopping center area, it got as high as \$5.50. In the North Hampton area, it ranged from \$1.35 to \$3.30. In the Lawrence area, it ranged from \$3.00 to \$4.00. In the Leominster and Clinton area, it ranged from \$1.50 to \$3.50.

XQ. To what do you attribute those wide variations of \$1.00 to \$5.00, and in one instance from \$2.00 to \$5.00. Was it the different type of buildings or equipment in the buildings, or what? A. No, it was primarily two factors, one, the type of space required, comparing, say, office and display floor space with store room space, the store room space being the low points, and also, the various areas, as you noted, as I [2074] was going from area to area, that the average is different, in the different locations. This is generally so, depending upon the availability of that type of space.

[2075] By Mr. Nowlin:

XQ. Directing your attention to Wachusett and Worce-

ter—I think that is page 827 on Exhibit 58-A—give us a brief description of these joint facilities and their location in relation to the operating areas of the gas and electric companies. A. In Webster, Worcester County Electric Company owned the office on Maine Street, which was jointly used by Worcester County Electric and Wachusett Gas Company. In Leominster there is an office on Maine Street leased by the Worcester County Electric Company that was jointly used by Worcester County and Wachusett Gas Company. On Mechanic Street in Leominster, there was a stock room jointly used by both companies. In Clinton, on High Street, there was an office owned by Worcester County jointly used by Wachusett and Worcester and on Parker Street in Clinton there was a stock room jointly used by Wachusett and Worcester County.

XQ. What was the basis for the \$7,000 rental paid by Wachusett as indicated on page 827 of Exhibit 58-A? A. The basis of the allocation was a use, space use basis.

XQ. Do you know the number of square feet used by the gas company as compared to the electric company in the general office building? A. Which one are you referring to, Mr. Nowlin?

[2076] XQ. The second paragraph says "Quarters jointly occupied by Wachusett and Worcester consisted of general office space, garage and stock room area. For the use of its portion of the quarters occupied, Wachusett paid a rental of \$7,000." What portion of that applies to general office space? A. Approximately \$5800 of that \$7000 is for office space.

XQ. Do you know for how many square feet? A. No, sir, I don't have the split here with me. This is for two office buildings, the one I mentioned at Maine Street in Leominster and the other one High Street in Clinton.

XQ. Do you consider the rental payments of \$7,000 paid by Wachusett to Worcester to be a fair charge? A. At

the time that we made this evaluation, we examined the basis of allocation and came to the conclusion that it was a fair allocation.

XQ. Could you give us the details for that conclusion?  
A. Well, as I mentioned before, I do not have the square feet detail with me but in general the basis for the conclusion was on the basis, as I said before, the allocation was based on square foot of use, bearing in mind again that you do have employees occupying space who are jointly used by both the electric and the gas company.

XQ. Well, how can we test your conclusion, Mr. Simes, if we don't have available to us the underlying data? [2077] Mr. Vorenberg: I think Mr. Simes said that he did not have the specific square foot figure from the stand, not that the data would not be made available to you.

Mr. Nowlin: Could I inquire of counsel will you supply that information for us?

Mr. Vorenberg: We will do that.

By Mr. Nowlin:

XQ. Mr. Simes, if the \$7,000 charge of Wachusett is fair, how can you reconcile that with the cost of \$24,400 or about three times as much for this space as you have projected on a combined pro forma basis? I mean on a severance basis. A. In the case of Wachusett Gas Company, under pro forma operation, we would have required or we would require approximately 5600 square feet for its office in Leominster, 2400 square feet for store room space in Leominster, 900 square feet for primarily merchandise display in a store. In Clinton we decided that with the office over in Leominster, all we would need would be a store for cashiering and public contact and display purposes for which we required 1,000 square feet. Now the total of that is approximately 10,000 square feet, at \$2.75 a square foot, less the amount that was chargeable directly to merchandising accounts.

XQ. You don't know how the square footage that you projected on the severance basis compares with the actual square feet that they are now using, do you? [2078]  
A. Well, I think that the figure for the square feet or the allocation of square feet to be used is something that counsel has already suggested that we would supply. Again I would like to point out, as I have been pointing out throughout, that we pro formed the organization, determined the people that we need and then on the basis of the type of organization we have and the people required, we then determined the space requirements on the pro formed organization.

XQ. To what extent is this 24,400 figure reduced on a combined operation basis? A. Mr. Nowlin, I direct your attention to Exhibit 105, supplementary schedule No. 4, and in the tabulation at the top of the page you see the first column headed, "Pro Forma Rental Cost". This is pro forma rental cost under combined operation and Wachusett Gas Company becomes \$19,600.

XQ. Well, isn't the organization of Wachusett on the pro forma rental basis, on a combined pro forma rental basis, about the same as the present organization?

Mr. Vorenberg: Mr. Nowlin, what do you mean by a pro forma rental basis? I am not sure I understand that.

Mr. Nowlin: I think that is the title of the—

Mr. Vorenberg: Pro forma rental basis?

Mr. Nowlin: You have pro forma rental costs as the heading of the column I am looking at on Exhibit 105. We assume that is on the combined pro forma operation basis. [2079] Mr. Vorenberg: Read the question.

(Question read by reporter.)

Mr. Vorenberg: Mr. Nowlin, just so I understand the question, you are asking him to compare the space needs for the organization of Wachusett under actual operation

and the space needs for Wachusett under pro forma combined?

Mr. Nowlin: Yes.

The Witness: There is a reduction primarily in the E & A staffing of the independent operation and the combined operation for Wachusett with nine people included in the E & A group under independent operation versus six people under combined operation.

By Mr. Nowlin:

XQ. That is E & A? A. That is correct, sir. As a matter of fact, you will notice on page 35 of combined operation that there are three of those, six E & A, the Chief Accountant, stenographer and Chief Clerk, whose work under combined operations is split between Wachusett and Central Mass. and, as I recall, they were to be located in the Central Mass. office, so actually we are providing space for only three people in the executive and administrative staff of Wachusett as against nine under independent operation.

XQ. How do you account for the fact, then, Mr. Simes, that on an increase of three people the rental cost of \$7,000 [2080] basis jumped to \$19,600 on a pro forma combined basis? A. Sir, I was referring to the comparison between the \$24,400 shown on page 827 of Exhibit 58A and the \$19,600 as shown on schedule 4 of Exhibit 105.

XQ. Isn't it a fact, Mr. Simes, that the local pro forma organization, on a combined basis, would require about the same space as the same organization at present? A. You are speaking of Wachusett?

XQ. Right. A. Well, I just mentioned that in the E & A there is space provided for nine executives, including a President, on page 818 of Exhibit 58A, as against three people on page 35 of Exhibit 91.

XQ. Now you are comparing the independent company basis with the pro forma combined. What I was doing

was asking you to compare the pro forma combined with the actual organization. A. Well, that, again, comes back to the question of the information that counsel offered to supply, the actual space of the present operation where they jointly use space with Worcester County Electric.

XQ. According to Exhibit 105, your pro forma combined rental cost is \$19,600; is that correct? A. That is correct. Yes, that is correct.

XQ. Now on an actual basis, your actual cost is \$7,000? A. Yes, sir.

[2081] XQ. Now, is it also a fact that there is a slight difference in the personnel requirements on a pro forma combined basis and those on an actual basis? A. Oh, no.

XQ. What is the difference? A. This is the point I was making before. In the case of the present NEES operation we have jointly used people. In splitting them, in the event of severance, you are going to require considerably more people to man the Wachusett Gas Company and that was the space requirement pro formed that I mentioned before that came up to \$24,400, exclusive of that chargeable to merchandising. Then you asked me if I could compare that with what they were presently doing under joint operation with Worcester Electric in these offices in Leominster and Clinton and that was the information that counsel offered to supply you.

Hearing Examiner: Let us have a short recess.

(Short recess taken.)

Hearing Examiner: Let us come to order.

By Mr. Nowlin:

XQ. Mr. Simes, does Wachusett and Worcester maintain joint display on sales floors? A. Yes, sir, they do, in Leominster and Clinton.

XQ. Now, are the operations of Worcester and Wachusett as closely intermingled as they are in the case of Lynn Gas

& [2082] Electric? A. I am not sure that I—Could you expand on "intermingled"?

XQ. If I recall your testimony on Lynn, you said that the Accounting Department, the desks and equipment and everything was mixed together and some of the other departments were very closely mixed and jointly operated. Am I correct in my recollection of that testimony?

A. That there were people used jointly, yes.

XQ. Well, I gathered from the testimony—if I misconstrued it, why tell me—I gathered from your testimony on Lynn that probably the joint operations of Lynn Gas & Electric were closer intermingled than they were with any of the other system joint operations. Am I correct in that interpretation?

A. I don't think that I intimated that.

XQ. Well, now, does Worcester and Wachusett have joint garages?

A. Do Wachusett and Worcester have joint garages? That is the question?

XQ. Yes. A. Not in a garage building in the Wachusett area. Whatever vehicles are parked are stored out in the open.

XQ. Well, is there any portion of your estimated rental cost upon the severance of Wachusett based upon the rental of new garage space?

[2083] A. No, sir, there is not.

XQ. Your total here of \$24,400 is based on only office space?

A. Well, the items that I mentioned before and I believe I gave you the square footage before, was office space in Leominster, store space, that is, display and cashiering and stock room space and then over in Clinton we decided that we would only need a store there for cashiering and display purposes.

XQ. Now, directing your attention to a similar situation with respect to Lawrence and Merrimac-Essex, page 232 of 58-A. Now, as I understand the information on that page, you estimate that it would cost Lawrence \$60,800 rent for

adequate space to house its staff on an independent company basis; is that right? A. As I said here on page 232, which I believe you were reading from, under independent operation the rent for adequate space to house the expanded staff and other operations was estimated at \$60,800, including utility and maintenance, but exclusive of space for appliance display which was included in the cost of merchandising activities.

XQ. Now that \$60,800 figure on an independent company basis becomes \$61,300 on a pro forma combined basis, doesn't it? A. You are referring to the figure on schedule No. 4 of [2084] Exhibit 105?

XQ. That is right. A. That is correct, sir.

XQ. How does that occur? A. The difference comes about because the pro forma rental cost shown on schedule No. 4 of Exhibit 105 includes the space for merchandising, which in our organization of Exhibit 58A was contained in another section of Exhibit 58A. As I mentioned before, the \$60,800 excluded space for appliance display, which was included in the cost of merchandising activity.

XQ. Do you know what this cost of merchandising display amounts to? A. The amount of rental space chargeable to merchandising was \$5,600.

XQ. Well, now, isn't the figure on Exhibit 105, pro forma rental cost of \$61,300, isn't that also exclusive of merchandising cost? A. No, that is included. That includes the merchandising.

XQ. You mean all of these figures here on the pro forma rental column 1 here are not on a comparable basis with those reflected in Exhibit 58A? A. Yes, sir, they are on a comparable basis with Exhibit 58A. 58A has them in two sections.

XQ. I believe, Mr. Simes, that page 232 of Exhibit 58A [2085] indicates that the figure \$37,100 actual cost of

rentals reflected on 105 is exclusive of rental cost of merchandising. A. That is correct.

XQ. In order to make the figure of \$61,300 comparable with \$37,100 as reflected on Exhibit 105, shouldn't the \$61,300 figure be exclusive of merchandising? A. Mr. Nowlin, let me clarify this situation. I misspoke before when I said that the \$61,300 on schedule No. 4 of Exhibit 105 includes merchandising. Of course it does not.

XQ. Now we are back to our original question of why does the \$60,800 go up to \$61,300.

Mr. Vorenberg: Mr. Nowlin, I am no accountant, but I am guessing that this item is not a single item but that it a net of a number of different items, that it may be more expeditious if on that type of intricate accounting thing we provided you with a schedule or a breakdown that would help your analysis.

Mr. Nowlin: There appears to be an obvious inconsistency and if I could, I would like to get the answer from the witness.

The Witness: There is a net increase of space requirements in the case of the Lawrence Gas Company under combined operation. The space requirements for the local organization would be reduced by approximately a thousand [2086] square feet. However, there will be joint treasury activities between North Shore Gas Company and Lawrence Gas Company under combined operation, which, of this total space required for Lawrence, the joint treasury operation would require an additional 2200 square feet over the thousand reduction due to the part of the E & A group being with the central organization. Half of this 2200 feet is billed to North Shore, but the net increase to Lawrence Gas going from independent operation of \$60,800 to \$61,300 is due to that joint operation of the North Shore and Lawrence treasury groups and the billing of the North Shore for half of the space.

By Mr. Nowlin:

XQ. Mr. Simes, according to page 222 of Exhibit 58A, Lawrence had a grand total of 149 employees on a pro forma independent company basis. On page 18 of Exhibit 91, it indicates that Lawrence Gas Company will have a grand total of 139 employees on a pro forma combined basis, or a total of ten less employees than on an independent company basis. Yet the cost on an independent company basis is \$60,800 as compared with \$61,300 on a pro forma combined basis. I am having difficulty understanding how you fix these figures. Can you explain that for us? A. Well, that is what I just explained, that the reduction in space requirements for Lawrence Gas Company under combined operation was a thousand square feet. However, due [2087] to joint treasury operations with North Shore Gas Company an additional 2200 square feet over the independent operations would be required. Now we are talking in net differences here of, between \$61,300 and \$60,800, of \$500.00.

XQ. Where does the joint operation take place in the Treasury and Accounting Departments? A. Primarily in the executive and administrative groups where you have a chief accountant, secretary, assistant chief accountant and a stenographer who would be shared jointly between North Shore and Lawrence Gas Company.

XQ. Well, in the executive and administrative staff, you only show eight on a pro forma combined basis and you show fifteen on an independent pro forma basis—almost twice as many on an independent basis as on a pro forma combined basis. It doesn't seem to indicate that the cost should be less.

Mr. Vorenberg: Mr. Nowlin, I think we are getting bogged down here on something that is set forth right in the Ebaseo report itself. If you will just turn the page to 233 you will see the reference to the garage item of \$3,300, which I think makes up the discrepancy you are wondering

about and I don't know that it is expeditious to be spending this much time on an accounting detail.

The Witness: Mr. Nowlin, if I had turned the page, I, too, would have recalled this detail. The figure to be [2088] compared with the \$61,300 is the \$60,800 shown on page 232, plus the \$3300 shown on page 233, which is a total of \$64,100. So that there is not an apparent inconsistency. The rental costs go down from independent operation at \$64,100 to \$61,300, as shown on schedule 4 of Exhibit 105.

Hearing Examiner: In view of the remarks of Mr. Vorenberg and the testimony that the witness has just given, do we need to spend any more time on this \$3,300 item?

Mr. Nowlin: We are still having difficulty, Mr. Examiner, in reaching the same result that they do.

Hearing Examiner: That is the inquiry I am making.  
By Mr. Nowlin:

XQ. Well, isn't the pro forma organization on a combined basis considerably smaller, that is for Lawrence, considerably smaller than it is on a pro forma independent basis? A. Well, I wouldn't use your expression "considerably smaller". I will state again what I have said repeatedly, that in the case of the pro forma organizations, both for independent operation and combined operation, we determine the space requirements for the staff required for the equipment necessary to conduct their operations on two separate independent bases and space required under pro forma organization, independent operation, was priced out at the \$2.75 figure, plus the \$3,300 for the garage, which we mention on the top of page 233 and we priced out the space requirements of the [2089] pro forma operation under combined operation.

XQ. Let's take some of these items one by one, Mr. Simes. Look at page 220, 58A, and page 16 and 91. Now on the independent company basis you have a total of 15

personnel projected for the executive and administrative; is that right? A. What page was that in Exhibit 91?

XQ. Page 220 of 58A and 16 of 91. Now, on the independent company basis you have 15 E & A, haven't you? A. That is correct, sir.

XQ. And on a combined basis, you have eight E & A; isn't that correct? A. Yes.

XQ. Doesn't the fifteen on an independent company basis require considerable more space than the eight on a pro forma combined basis? A. We would have to go through the—when you say is there a considerable difference, so far as numbers are concerned, but in the executive and administrative staff under independent operation, where you are providing space for the President, Vice President, Sales Manager, Engineer, Assistant Engineer and so on that are not included in here, when you are reducing down from the independent operation to the pro forma combined operation, you are discussing different amounts of space for the individuals. You can't relate the eight and the fifteen [2090] directly.

XQ. Well, on an independent company basis, Mr. Simes, you have a President, that you just mentioned, you have a Vice President and Sales Manager and an administrative assistant that you don't have on a pro forma combined basis. Wouldn't this space for a President and these higher echelon executives require more space than it would on a combined pro forma basis? [2091] A. I would like to have that question again, please.

Hearing Examiner: All right. Read the question.

(The pending question was read by the reporter)

The Witness: Well, again, I say that we would have to compare this on an individual basis, and rather than try to answer your question from what I have available here, I would like to find my basis of pro forma combined opera-

tion space determination which apparently I do not have with me right now.

XQ. Well, isn't it obvious, Mr. Simes, that just looking at the classification in salaries of the E & A reflected on an independent company basis, and compared with that, on a pro forma basis, it clearly indicates that you would require more space on an independent company basis than you would on a pro forma basis? A. Yes, sir. That is true. We have reduced the amount of space required under pro forma, combined operations.

XQ. Would it not be a substantial reduction in space required? A. Well.

Hearing Examiner: Are you withdrawing this question?

(The pending question was read by the reporter)

[2092] Hearing Examiner: Have you anything further to add to that question? Are you ready to answer it, Mr. Witness?

The Witness: No, sir. Again, not a substantial reduction. We are also talking about the total overall space requirements for the independent operation and the combined operation and as I mentioned before, there is a reduction in space requirements.

XQ. (By Mr. Nowlin) Well, Mr. Simes, doesn't that reduction come about because of the garage rental—executive-administrative, you don't house them in a garage? Isn't that right? A. I think you misunderstood, Mr. Nowlin. The total rental cost including the garage for Lawrence Gas under independent operation, is \$64,100. This is compared wth the \$61,300 shown on Schedule 4 of Exhibit 105.

XQ. Suppose we take the garage out of each one of those figures. What do we get? A. Do you want me to make the calculation?

XQ. If you will, please. A. We would have \$60,800 for independent operation, and \$58,000 for combined operation.

XQ. That is a decrease of \$2,800 on the independent company operation. Is that right? A. That is correct.

[2093] XQ. And yet, when you refer to the E & A staff on an independent company basis, as compared with the pro forma basis, you find that the number is almost twice as great on an independent company basis as it is on a pro forma basis and that the total payroll is almost three and a half times on the independent company basis as it is on a pro forma basis.

Doesn't that indicate to you that there is a discrepancy somewhere in here, in the amount of space that you estimated to be required for the E & A staff? A. Well, as I stated a moment ago, and I would be very glad to supply you the figure, I cannot locate right now my combined operation pro forma space requirement from which I would be able to make the direct comparison.

XQ. Well now, going down some more of these categories, their operating departments, pro forma combined, you show a total of 16 personnel on an independent company basis. You show a total of 16 personnel; on a combined basis under a sub heading "Garage", you show a total of three on each exhibit.

On each exhibit, you show a total of 14 distribution personnel each. On utilization, the total operating department, you show a total of 59 each on the exhibit.

On new business, you show a total of 21 for each basis.  
[2094] On Treasury and accounting you show nine for Lawrence on an independent basis and 7 on a pro forma basis.

Mr. Vorenberg: That is just reading down the pro forma. You are not reflecting, for example, when you talk about general accounting, the possibility of other companies being combined under one roof?

Mr. Nowlin: Well, I am giving you the figure that you gave us in these two exhibits 58-A and Exhibit 91.

Hearing Examiner: Well, what question are you asking him now?

Mr. Nowlin: Well, I want to point out, Mr. Examiner, that there is only a difference of two people—of five people, between the pro forma combined operation and the pro forma independent operation.

Hearing Examiner: Well, what question are you asking the witness? Are you reciting these figures? What do you want to ask about?

Mr. Nowlin: I am leading up to that question.

Hearing Examiner: All right.

Mr. Nowlin: So far as we can see, there is practically no change in the total personnel between the two bases, other than in the executive branch.

Mr. Vorenberg: If you—

Mr. Nowlin: Treasury and Accounting.

[2095] Mr. Vorenberg: If you are referring to specific pages, Mr. Nowlin, I think you also ought to permit him to include a reference to page eleven, where there is a reference to the combination of general accounting activities for Lawrence and North Shore.

Mr. Nowlin: I am not trying to exclude him.

Mr. Vorenberg: If you are making him go down the pages, you ought to include all the relevant pages.

Mr. Nowlin: Frankly, there seems to be a glaring inconsistency to us between the computed cost on a pro forma combined basis and on the independent company basis.

I am trying to ascertain—

Mr. Vorenberg: Why don't you permit him to include everything, in order to give you an explanation.

By Mr. Nowlin:

XQ. Now, in view of those comparisons, Mr. Simes, isn't it obvious that the rental cost on a combined basis should be considerably less than it is on an independent company basis? A. As I said before, this comparison of

the independent operation for space requirements and for operation under the central organization, space requirements, have got to be considered in total.

XQ. Isn't it a fact, Mr. Simes, that the only differences that take place between the two organizations [2096] is in the executive-administrative section and in the treasury and accounting section?

Mr. Vorenberg: Are you talking—

The Witness: In the treasury and accounting sections, as you notice, on page 11 of Exhibit 91, it states that, "As jointly performed, these said functions—general accounting, that is—would require 14 employees as compared with a total of 18 on an independent company basis."

Now, again, I repeat—

Mr. Nowlin: What page are you referring to?

The Witness: Page 11 of Exhibit 91.

This question of space requirement has got to be considered in total.

By Mr. Nowlin:

XQ. Well, doesn't your estimate on page 16 of Exhibit 91 under E & A take care of those joint operations; and on page 18 of the treasury and accounting?

Mr. Vorenberg: Now, it seems to me, Mr. Nowlin, that maybe we are wasting some time here because are you not confusing, again—

Mr. Nowlin: Mr. Vorenberg, we are not wasting any time. We are trying to get him to answer the questions.

Mr. Vorenberg: Well, let me point out to you, you keep comparing personnel in the personnel analysis, [2097] but what you are trying to find out is how space utilization figures are derived and the witness has tried to indicate, on page 11 of 91, you got 14 people who are, as I understand it, all to be billed—all to be included in Lawrence's space utilization, but if you keep coming back—

Mr. Nowlin: That is reflected in the figures that we have been talking about.

Mr. Vorenberg: No. They are not. You come back to 91. You say seven people. He made that point, and I just wonder if anything is being gained by mixing these two things together.

Hearing Examiner: Well, Mr. Nowlin, have your questions had any relation to page eleven of Exhibit 91?

You excluded that from your question.

Mr. Nowlin: I would like for the witness to tell us what significance the figures on page 11 of Exhibit 91 have, in the light of the questions that are being asked.

The Witness: Well, sir, I made reference to page 11 a moment ago, myself.

Hearing Examiner: I know you did.

The Witness: In which it states that the joint functions would require 14 employees, as compared with a total of 18 employees on an independent basis, and again, I have to repeat that you have to look at these space requirements on a total basis. You cannot pick out particular [2098] individuals or particular departments. In this particular case, we also have to take in consideration not only Lawrence Gas but North Shore because of this joint operation.

XQ. Well, Mr. Simes, looking at page 11, as I interpret this, you are in effect saying there is a difference of four employees. A. Yes, sir.

XQ. Four less on a combined basis than on the independent company basis. Isn't that correct? A. Yes, sir.

XQ. Well, doesn't that require less space? A. Depending upon where the combined operation was performed. As I mentioned to you before, an approximate increase of 2,200 square feet would be required in the Lawrence Gas Company for this joint operation.

XQ. Now, Mr. Simes, on the basis of the figures we have

obtained from different places in the reports here, would you accept these, subject to check:

The Lawrence, on an actual per books basis, shows 123 full time employees and 22 part time employees, and they pay a rent of \$37,100.

On a pro forma combined basis, they have 139 full time employees, and the rent increases to \$61,300.

Now, if we compute the increase of cost, it [2099] is about \$24,200 rent increase, and there is only a difference of a few employees.

Now, why is there such a substantial increase in the rent cost on a pro forma basis?

Mr. Vorenberg: You are talking about, now, actual to pro forma independent?

Mr. Nowlin: Actual pro forma combined.

The Witness: That was a rather long and complicated question. Can it be broken down? Can I get it back again.

Mr. Nowlin: Yes. I will give you the factual information.

The employees, on a per books basis were 123 full time and 22 part time. That is a total of 145 and I would assume that some of these part time employees must have to have space, don't they?

The Witness: Well, by part time, you understand this meant that, not in the sense that you go out and hire an employee to come in and work three hours a day. By part time is meant that it is jointly used by the electric and gas company. He is used all day.

By Mr. Nowlin:

XQ. He would have to have space. A. Yes.

XQ. To conduct his functions. [2100] A. Yes, sir.

XQ. You have 123 full time employees and 22 part time. A. What was the figure—the first figure?

XQ. 123 full time and 22 part time.

Just for present purposes, let's allocate, say, ten of those 22 to gas. That gives you 133 full time employees, does it not, per book; or if you want to use another allocation, it is okay. Would you state, with 123 full time, how many of those part time you think are properly allocatable to the gas?

Well, those are the actual figures.

On a pro forma combined basis, you show 139 full time employees. That is an increase of 16 actual full time employees without giving any effect to the 22 part time employees.

It seems to me they would balance out to pretty close to the same number of employees, on actual basis and on pro forma combined basis.

Do you agree with that? A. No, sir. It would depend upon how the space of this—before I complete that answer, may we tie down what figure—where you are picking these figures up, so we are all together?

XQ. Page 213, for per book figures; and Exhibit 58-A [2101] page 18 on Exhibit 91, on a pro forma combined basis. A. Yes, sir.

Now, again, I say that in determining the space requirements of the pro forma independent or the pro forma combined operation for the Lawrence Gas Company, we determine the space requirements for these 139 people.

XQ. Now, how does that compare with the 123 full time and the 23 part time on an actual basis? A. Is there a question pending?

(The pending question was read by the reporter)

The Witness: As I stated before, I do not have the actual space utilization and the split of that space between electric and gas in the Lawrence building. But again, I want to point out that you have to, when you are talking about the total employees, you are talking utilization groups. You are talking garage people. You are not

talking any longer about the one general office space on Essex Street over in Lawrence.

Again, you have to look at this thing in total.

Now, so far as the space requirements, as I performed it for the 139 employees, let me restate that. So far as the space, as I performed the independent operation, there would be a requirement of approximately 24,000 square feet for the Lawrence Gas Company.

XQ. What was that figure on the combined pro forma [2102] basis? A. On a combined, pro forma basis, it was a reduction of 1,000 square feet for moving from independent to combined operation and an increase of approximately 2,200 square feet for the joint Treasury and Accounting operations.

Mr. Nowlin: Now, Mr. Examiner, could Mr. Gishman make a statement of information which we would like to get here, on the record?

Mr. Vorenberg: In what capacity? As a witness?

Mr. Nowlin: I will write it out and state it.

Mr. Vorenberg: This is a request for information!

Mr. Nowlin: A request for information.

Hearing Examiner: Yes. Let him make that request.

Mr. Gishman: Mr. Examiner, throughout this examination the witness has been telling us that he has for each case, estimated the space requirements for the pro forma organizations. It is our duty here to try and determine whether or not those estimated space requirements are sound.

We have no underlying data whereby we can make such a determination; nor do we have the underlying data for the actual per books space being occupied right now; nor do we have the per books information regarding how the various rentals were determined and how they were allocated [2103] between gas and electric. Before we can perform our duty, and make these determinations, we have

got to have this underlying data and we are not able to get it by questioning the witness and we would like counsel for the respondents to supply us with the underlying data that will permit us to make these comparisons.

Hearing Examiner: Well, would it not be a good idea for you gentlemen—for counsel—to have a conference and see what you can work out along the line suggested by Mr. Gishman?

Mr. Vorenberg: I am frankly quite confused by Mr. Gishman's statement. I would not know what to give him on that basis, so I would be delighted—

Hearing Examiner: It is too general and I think you gentlemen should have a conference.

Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

In view of my suggestion, we will recess at this point until 1:30 this afternoon.

(Whereupon, at 12:20 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

#### AFTERNOON SESSION

(1:30 p.m.)

[2104] Hearing Examiner: Let us come to order.

Mr. Vorenberg: Mr. Examiner, as you requested, we have talked informally with the staff to try to clarify the scope of their request. Certain ground was covered in the rental area in relation to Lynn this morning.

Mr. Gishman has given us a request for information—in particular, the amount of space and the price for each of the pro forma rentals and where there have been adjustments in space and dollars in going from the independent to the combined, I understand you would like that.

Is that right?

Mr. Gishman: Yes.

Mr. Vorenberg: Number Two, in the actual organization, whenever the gas company paid rentals to the electric companies, how much space was involved and how the amount was determined, and we will undertake to supply that for the other seven companies.

Hearing Examiner: Very well. Thank you, Mr. Vorenberg.

Whereupon,

JAMES F. SIMES

resumed the stand and was further examined and testified as follows:

[2105] *Cross Examination (Continued)*

By Mr. Nowlin:

XQ. Mr. Simes, you took us on a Cook's tour of the Lynn office building. I wonder if you would do the same thing for us with the properties jointly occupied by Suburban and Mystic?

What is the character, for example, of the building and is it susceptible of re-arrangement for joint occupancy or just what is the situation with respect to Mystic and Suburban. A. Well, in overall, Suburban owns the Pleasant Street general office in Malden; also located at Center Street is a service order center and garage, which is owned by Suburban. Suburban leases certain property which is jointly occupied by Suburban and Mystic Valley. In Melrose, on Main Street, there is a store jointly occupied. In the town of Medford, on High Street, there is a store jointly occupied. In Everett, on Broadway, there is also a store jointly occupied and in Revere, there is a store jointly occupied. In Winthrop there is a store owned by Suburban which is also jointly occupied by Mystic Valley.

XQ. Now, does Mystic Valley own any of those facilities

that you described? A. Does Mystic Valley own any of those facilities?

[2106] XQ. Yes. A. No, sir.

XQ. So that in all of the arrangements, joint arrangements between Suburban and Mystic, Mystic is the lessee, is that correct? A. Well, I want to tie the use of that word down.

There are so... instances where Suburban Electric leases property and then in turn, charges Mystic Valley for the joint use of that property.

XQ. Is that leased on written arrangement, or just an oral arrangement? A. Do you mean the arrangement between Mystic Valley and Suburban?

XQ. Yes. A. I believe it is a written arrangement between Mystic Valley and Suburban, in those instances.

XQ. Now, going to the office building, what kind of a building is it? In what condition is it? A. General office building in Malden, is a five-story brick structure.

XQ. Well now, does Mystic and Suburban occupy jointly, portions of the same floor in that building? A. Yes, sir. They do.

XQ. What departments would that be in? A. The customer accounting; machine accounting; plant [2107] accounting; general accounting.

XQ. The E & A occupies separate floors—a separate section of the building? A. Did you say occupies separate floors?

XQ. Separate floors or separate portions. A. Separate portions; not necessarily separate floors.

XQ. So that there is no commingling of activity among the executive and administrative functions of the two companies? A. May I have that question again?

(The pending question was read by the reporter)

The Witness: Well, certainly, in the Treasury personnel, the supervisory Treasury personnel, I am speaking of,

who are jointly—who provide supervision of the joint operation, that would be space that you would consider combination space.

XQ. Now, do you know the total amount of floor space that the gas company occupies or uses and the total amount of space that is used by the electric company and the total amount of space that is used by the central organization in that building? A. By central organization, you are speaking of the gas division?

XQ. Gas Division. A. I don't have that readily available, Mr. Nowlin, but I believe that is to be included in the data that is to [2108] be supplied.

XQ. I see. Do you know whether or not, Mr. Simes, the Gas Division and the Mystic Valley Gas Company occupy a major portion—together occupy a major portion of the office building? A. Do Mystic Valley and the Gas Division—I am trying to make sure I have your question.

XQ. Occupy a major portion of the building? A. No, sir. They do not.

XQ. Do you know what the carrying value of Suburban investment in this office building is? A. No, sir. Not off-hand.

XQ. Did you make any study or estimate of the rental cost that Suburban would incur if it were to move out of the building into new quarters? A. This again, is similar to what I explained earlier, in our overall evaluation. We considered every possible alternative to the point of determining which would be the most economical utilization of space, both for electric and gas companies in the event of severance, and as I stated in the situation with Lynn that we were discussing earlier this morning, we did determine that it would be more economical for Suburban to stay where it is, and as I recall, we determined that part of the space—that part of the space of the Pleasant Street

office in Malden—could be rented to [2109] outsiders and we included that in our calculations and in our estimates.

XQ. How much could you get for that rental, Mr. Simes?  
A. How much did I get for that rental?

XQ. Could you get for that rental, or did you estimate you would get for the rental? A. We used the same overall average rental figure of \$2.75 per square foot that we used in projecting what the rental cost would be for any of the companies going out to obtain space.

XQ. Now, how does the figure that you obtained for renting space to outsiders compare with the rental, to the rental payments paid by Mystic Valley? A. That again, Mr. Nowlin, will be related to the data on the actual space and the dollars which Mr. Gishman has requested, and which Mr. Vorenberg has indicated we would supply.

XQ. Mr. Simes, would it not be much more economical from the viewpoint of Suburban to stay in its present quarters together with Mystic than it would be to have Mystic move out and rent space to outsiders? A. Mr. Nowlin, I have stated several times previously, I believe, that I do not consider it a workable arrangement to have an independent gas company and an independent electric company to share the same quarters.

[2110] XQ. How about the same building? A. Again, I am speaking of the undesirability of sharing such joint quarters.

XQ. Well, at the risk of repeating, Mr. Simes, just what specific factors underlie that conclusion of yours?

Why shouldn't it be practical as long as they can separate different floors or different areas of the building? A. I know, as a practical matter, of no separated electric and gas companies, that do function under the same building. I know of one that tried it and it did not last a year.

XQ. Do you know why? A. I don't know of any—well, I have gone through this before. The company that owns

the building is going to by nature—human nature—take advantage of the fact that it is the owner of the building. It is going to take the most desirable space in every instance; it is going to have the most desirable facilities at its command for its use. This goes on and on through every department that you try to put together.

I have, in my own experience in the utility industry, I know of no independent gas operation and independent electric operation, that are using joint facilities of a general office and display floor nature.

I know of none.

[2111] XQ. Well, that may be purely a matter of choice. Perhaps, for a practical matter, what specific reasons are there why the gas and electric company—Mystic and Suburban—could not continue— A. I gave you one specific reason; that the gas company would in this particular case where the electric company owns the building, the gas company, in trying to function, would find itself being given the lease desirable space; the least desirable service.

XQ. Is that the present arrangement? A. No, sir. They are working under a joint operation. You have, in the case of Mystic Valley and Suburban, where there are people performing joint functions, you have that in particularly the Treasury and Accounting area.

Hearing Examiner: I would like to explore this field; Mr. Nowlin explored it last Friday.

Reverting at this moment, to the Holding Company Act, the Holding Company Act gives the Securities and Exchange Commission, as I understand it, functions of viewing the consuming public as well as the rights of stockholders. What do you think the consuming public will think of this suggestion, that two companies occupy the same building, side by side? Have you given any thought to that?

A. Not even side by side, your Honor. This is one build-

ing where they would both have a sign up—[2112] Mystic Valley Gas Company and Suburban Electric Company.

Hearing Examiner: Well, however you demark the area, one occupies and the other, would the consuming public regard an arrangement of that sort as being a bona fide separation of these functions, and would they regard it as a sort of a subterfuge?

Have you given any consideration to those ideas?

The Witness: Yes. There is no question but what the public being, as usual, totally unaware of what has gone on in the separation which could possibly be ordered by the Securities and Exchange Commission, would think they are still one company under the one head, in the one building. I don't think that from the standpoint of either one of the companies, the electric or the gas, it would be good for their public relations.

Hearing Examiner: Thank you, sir.

By Mr. Nowlin:

XQ. Mr. Simes, the New England System owns both the gas and electric, does it not? A. Yes, sir.

XQ. If they segregated and separated and had different operations, until they disposed of them, the New England system would still own both of them, would it not?

Mr. Vorenberg: I don't understand the question.

The Witness: I missed part of your question. I think your [2113] voice trailed a little bit.

XQ. They jointly own them today. They will jointly own them until they are disposed of, if they are required to do so. A. Yes, sir.

XQ. Don't you think the New England System has no obligation to its own investment, and to its own consumers to try to set up as efficient and economical a basis for operating these two divergent interests, as could possibly be?

Mr. Vorenberg: Mr. Examiner, in the first place, I find that question, if it means what I think it means—

Mr. Nowlin: Read it back.

(The pending question was read by the reporter)

Mr. Vorenberg: It has in it all sorts of legal and other conclusions which it seems to me are inappropriate for this witness to classify.

Mr. Nowlin: Strike the question. I will ask the question again.

XQ. Assuming that the eight combined gas companies are segregated and that they are still under common control with the electric, don't you feel that the New England Electric System has an obligation to its own investment and to its own consumers, to see that these two interests are set up on an economical and efficient operating basis?

[2114] Mr. Vorenberg: How can they both be segregated and under common control? The question makes no sense whatsoever.

Mr. Nowlin: Don't you know when you segregate these companies, and you set up a separate holding company, you still are going to control it?

Mr. Vorenberg: I don't know what is going to happen.

Hearing Examiner: The objection is sustained.

I sustain the objection.

I interpret those remarks of Mr. Vorenberg as being objections to the question. I sustain the objection.

Mr. Nowlin: Mr. Vorenberg has made no objection. I don't know what the grounds would be.

Mr. Vorenberg: Originally, I objected to your first question, Mr. Nowlin, on the ground (a) I did not know what it meant.

(b) It had in it a legal conclusion.

When the question was re-read, it seemed to me to make no sense at all because of this conflict between segregated and under common control, but my original ground of objection of asking this witness to make speculations as to

the possible ways and legal forms in which separation may take place, still stands.

Mr. Nowlin: I did not make any such assumption.

Hearing Examiner: Well, try again. I sustain the objections to this last question, as the one that you [2115] withdrew.

By Mr. Nowlin:

XQ. Mr. Simes, isn't it a fact that by moving the Mystic Valley operations out from the present joint arrangements with Suburban, will cause Suburban a loss of \$56,700 annually? Page 1218 of 58-B. A. That is correct.

XQ. Now, isn't it also a fact that if Mystic Valley goes out and rents new facilities, that Mystic Valley will incur an increase over what it pays in rental to Suburban? A. In total, there is a reduction in the rental costs to Mystic Valley.

XQ. From the system viewpoint, there is a net loss of several thousand dollars, is there not, of the system? A. We no longer have a system, to speak of. Under independent operations, there is an increase on Suburban and a decrease on Mystic.

XQ. Now, in order to avoid losing \$56,700 annually, would not Suburban ordinarily resort to every effort that it could to prevent that loss? A. Why certainly, I believe they would; and in my projection, I made an estimate of space in the Malden office, that would be rented—could be rented—to outsiders.

XQ. That is exclusive of the \$56,700 net loss, is it not? [2116] A. The \$56,700 is the net loss after giving credit for the rental of space to outsiders in the Malden office.

XQ. So that Suburban—you ordinarily would think, would exert every effort it could unless there was some compelling reason for it, to prevent that loss, would it not? A. Yes, sir. And I have given consideration to that.

XQ. And as far as I have heard, so far, the only compelling reason is that you say you know of no company where there is joint operation in the same building?

A. Well, as I said, I have said several times, that as a practical matter, it is not workable and as was stated a few minutes ago, from the standpoint of the public, there would be certainly, considerable confusion as to whether there was a separate gas company and a separate electric company, which would do damage, conceivably, to both companies in their public relations.

XQ. Well now, as to your point that you previously made, regarding the assignment of better quarters for the electric and for the gas, isn't it possible that since both of these operations are now under common control of NEES, that long term leasing arrangements could be worked out now that would obviate any discrimination as between one or the other?

[2117] Mr. Vorenberg: Mr. Hearing Examiner, again I just raise the question as to whether we are proceeding under some fundamental confusion in Mr. Nowlin's mind or perhaps in my mind.

Are you talking, Mr. Nowlin, about a joint occupancy or some remodeling of the building; because if so, I suppose the first question asked Mr. Simes is whether there would be room for these two companies if they remodeled.

If you are talking about joint occupancy that is another thing.

Mr. Nowlin: You are talking about Lynn. I am talking about Suburban and Mystic Valley.

Mr. Vorenberg: I am talking about Suburban and Mystic Valley. You jump back and forth, from joint occupancy to something else.

(The pending question was read by the reporter)

Hearing Examiner: Well, is there any issue present in

this proceeding at the moment, as to whether NEES has common control?

Mr. Nowlin: I don't know how there could be any question about that.

Mr. Vorenberg: No, your Honor.

Hearing Examiner: How do you view this? You say there is?

Mr. Nowlin: Certainly there is no question.

[2118] They are all under the NEES system at the present time.

Hearing Examiner: But under the separation of the gas companies, is there an issue here, clearly defined, that as separated, the gas companies will still be under common control of NEES?

Mr. Nowlin: Well, Mr. Examiner, it seems so obvious to me, that every other case we ever had, that if the gas and electric can be kept together, the company is given a year, or maybe two years, to dispose of the gas, so that the last two years, when it is completely under domination and control of the same interests, that if the holding company has the interest of its investors and consumers at heart, it should attempt to set up the most efficient and economical method these operations could have, as long as they sever control.

Hearing Examiner: Do I understand from your examination that the Division of Corporate Regulation thinks it is a practical solution to keep the separated gas companies housed under the same roof, as the NEES system?

Mr. Nowlin: We are exploring the item to see. The issue here, Mr. Examiner—

Hearing Examiner: Well, I know you have been exploring it but have you explored the idea what the consuming public will think of an arrangement of that sort?

Mr. Nowlin: These fellows are experts in that field. [2119] I am asking what specific reasons they have.

Hearing Examiner: I am the only one that asked if that has been explored so far. I want to get that on the record; that I think it ought to be gone into.

Mr. Nowlin: Let me explain one further point, Mr. Examiner. The main issue here is whether or not there would be a substantial loss of economy if you were to sever the gas and electric operations completely from the system.

In other words, if you take the gas over here and put them out of the system, would there be a substantial loss of economy? It is obvious that you can set up the most expensive route that you can think of to separate those gas and electric properties, and therefore, run up the losses. That is our function here today—the last three or four days—as we see it, is to try to ascertain just what the reasonable alternatives are, and what are the real losses that would be accomplished—not those which you might set up on a costing and putting basis.

That is the reason I am exploring these various items, trying to test the—

Hearing Examiner: I think the argument that has ensued largely between you and me, has obscured the pending situation, and I am going to again subside, and leave my ideas on the record, and you may resume your cross examination, [2120] and if Mr. Vorenberg has any objection, I will hear them.

The Witness: May I add one thing? Excuse me.

Mr. Vorenberg: The question I was raising, Mr. Examiner, was on a somewhat different point.

That is, I think it has come up a number of times, both on Lynn and again here, that it has not been perfectly clear, I think, in the record, when Mr. Nowlin has asked Mr. Simes whether it would be possible for these companies to stay under one roof, whether he was talking about their being intermingled. In other words, having joint operations; or whether he was talking about there being some

method of physical separation and that is my concern, as to how the record is going to look, if the questions are not clear. It seems to me, if you have a physical separation, the first question is whether there is enough room and I think that has gotten obscured here. That is the only reason I interjected myself.

Hearing Examiner: Let's return to the cross examination and if you have any objections, I will be glad to hear them.

Mr. Vorenberg: I have no objection.

Mr. Nowlin: Now, is there a pending question?

(The record was read as follows:

"Question: Well now, as to your point that you previously made, regarding the assignment of better quarters for the electric and for the gas, isn't it possible that [2121] "since both of these operations are now under common control of NEES, that long term leasing arrangements could be worked out now that would obviate any discrimination as between one or the other?"

Hearing Examiner: In recalling Mr. Nowlin's argument with me, I think that question is all right. Is it possible to do that, Mr. Simes?

The Witness: One of the very important determining factors in this is the fact that under independent operation, and with the space requirements of the independent companies, no longer having joint operations, there is not enough space in the Malden office to house the operations of the two independent companies.

By Mr. Nowlin:

XQ. I am not talking about the independent companies. I am talking about the pro forma combined. A. Even under the pro forma combined operation.

XQ. Do I recall your testimony on last Friday to the effect that you felt that there was enough space there for the Mystic Valley Gas Company, pro forma combined oper-

ations, together with the central organization, but that you had not considered that aspect of the situation of selling the building to the gas company? A. Now, you are speaking of just the gas company alone. A moment ago, I understood we were speaking of [2122] the electric company and the gas company.

Mr. Nowlin: Let's try this again.

[2123] XQ. Am I correct in my understanding of the previous testimony that you felt that there was enough space in the office building at Malden for Mystic Valley Gas Company and for the projected central organization and in response to a question as to why they did not consider selling the building to the gas instead of the electric retaining it you said you had not considered that; is that correct? A. No, sir, I don't think that is quite correct. For the purpose of clarifying this situation, I believe I stated that the central organization was not considered to be placed in jointly with any one of these gas companies, primarily because we did not know what the corporate setup would be or where the central location would be located. We pro formed the space requirements of the central organization and priced it out at our average \$2.75, without consideration of where it would be located because we had no idea of where it could be located.

XQ. Let me ask you, then, is the office building in Malden sufficient to house the central organization and the Mystic Valley Gas? A. This is under the assumption now that—Well, I don't know what the assumption is.

XQ. The building—I said is the building is sufficient. A. It is owned by Suburban Electric.

[2124] XQ. Is it sufficient to house the central organization and the gas organization?

Mr. Vorenberg: You are assuming that Suburban moves out?

Mr. Nowlin: That is right.

The Witness: Well, number one, that is, of course a big assumption.

Mr. Vorenberg: Is your question, Mr. Nowlin, whether it is physically possible or whether there would be any savings in doing it?

Mr. Nowlin: I will get to the savings. Mr. Examiner, may I get an answer to one of my questions?

Hearing Examiner: I think the question was is there adequate space in that building for the central organization, as well as for Suburban. Is that right?

Mr. Nowlin: No, no, for the gas company.

The Witness: Just on a straight square foot comparison, the requirements—Let me state it another way: On the basis of a straight square foot comparison, there is about 37,000 square feet available in this Malden office. Without regard to arrangements, rearrangements, the approximate requirements for the Mystic Valley Gas Company and central organization would be just approximately 36,000 square feet. Now, this is without consideration of arrangements of space or whether or not this is—this is a straight [2125] calculation of square footage as it stands right now.

By Mr. Nowlin:

XQ. Do you know whether or not it would be practicable to rearrange the office building so that it could be jointly occupied by the central organization and the Mystic Valley Gas Company? A. I am trying to visualize the physical layout of this building, Mr. Nowlin. I would say it is very difficult to say right now whether or not it could be rearranged to satisfy the space needs of both the central organization and the Mystic Valley Gas Company.

XQ. Now, as I understand it, you also made a study of the estimated severance cost to the electric company, didn't you, as a part of this overall study? A. Yes, sir.

XQ. Did you, in the course of your study, make any

analysis or detailed study to determine from the system viewpoint, overall system viewpoint, if it would be more economical for the gas companies to acquire the building from Suburban and have Suburban move out, rather than have Suburban retain it and have the gas companies moved out? A. In our determination of these space requirements, as I have stated before, we have considered the practical alternatives. In this particular instance, I do not recall—Again you realize that this has been over a year since my [2126] consideration and judgments on this problem—I do not recall the specifics in regard to your question that you are asking. I do know that in arriving at our conclusions we considered every practical alternative, as I think has been illustrated time and time again. In one instance that immediately comes to mind, the case of the building that is leased by Merrimack-Essex in Salem and jointly used by Merrimack-Essex and North Shore. There my recollection is that we moved both of them out to obtain the most economic rental situation for both the electric and the gas.

XQ. I was going to ask you about that situation. Are there any other reasons or are there any reasons other than what you have previously indicated about the dislike of having two utility companies in the same building? Are there any impelling reasons why North Shore and Merrimack both had to be moved out of their present quarters and obtain new quarters? A. Yes, sir. As I have mentioned, the fact of the impact on the public, also the fact of the space requirements for independent operation of the gas and electric companies.

XQ. Well, now, isn't it a fact, Mr. Simes, that your projection in the separation of the operation of the gas and electric companies is in the overall about the most expensive arrangement that they could have had? A. No, sir.

[2127] XQ. Can you name any instance where you have effected economies by your projections? A. In the instance

which I just mentioned, the case of the general office and displaced space jointly used by Merrimack-Essex and the North Shore Gas Company in the Salem Office. We have, in that instance, moved the North Shore Gas Company out to other quarters. In the examination of the building, there was approximately 3,000 square feet that could be rented to an outsider when North Shore vacated, and, therefore, partly offsetting the loss of rent revenue from North Shore. However, on determining the space requirements of Merrimack-Essex after severance, I determined that it would be more economical for Merrimack-Essex to give up its lease in the Salem office and rent other quarters. This overall comes out as a more economic situation than leaving the electric company in the quarters which are now jointly occupied by both Merrimack-Essex and North Shore.

XQ. Does that mean that you would have recommended that that change be made from the viewpoint of efficiency and economy even though there were no separation between the gas and electric operations? A. No, sir. Under joint operation they are much better off in the space where they are right now. But once you go to separation, you need greater space requirements.

XQ. Did you, in the course of your overall study of [2128] the NEES System find any instances where joint use of facilities, where you felt that economies could be realized or increased efficiency obtained by voluntary change of some of these facilities? A. No, sir, I did not.

XQ. In the course of your studies, for the purpose of the Ebasco report, what particular NEES officials did you check with, consult with regarding your estimates of the changes on the joint facilities? A. I don't know whether you can call them officials or not, Mr. Nowlin. I spoke to one of the lawyers to obtain information on existing leases; I spoke to accountants at the local organization level to determine the basis of allocation of jointly used space, in

order to satisfy myself that the allocations were fair. I would say that was the extent of it.

XQ. Do you know who in the NEES system was responsible for leasing and arrangement of joint facilities?  
A. So far as the leasing of property by NEES companies from outsiders, I can't say that I know who is in charge. I went to the individuals, as I mentioned before, who would have copies of the lease arrangements so that I could examine them.

XQ. Well, in making your projections of the inter-company rental charges, did you consult with any NEES officials [2129] in obtaining their advice or views as to what arrangement they thought might be advisable or preferable?  
A. No, sir, not in one instance.

XQ. Directing your attention for the moment, Mr. Simes, to page 1018 of Exhibit 58B, do you know how the space rental payment by Merrimack, aggregating \$11,800 was arranged—what the basis of the charge is? A. This is in reference, on page 1018, to the statement that North Shore rented space at Beverly and Gloucester?

XQ. That is right, property of North Shore. A. Yes, sir, that was for space on Maine Street in Gloucester where Merrimack-Essex and Suburban jointly shared office space, for which Merrimack-Essex paid to North Shore Gas Company \$5,400, office space on Cabbot Street in Beverly, which was owned by North Shore Gas Company and which was jointly used by Merrimack-Essex and North Shore, for which Merrimack-Essex paid North Shore \$5,000. Down at the River Street gas property there were certain lands used by Merrimack-Essex for storage of miscellaneous equipment, for which they paid North Shore \$600.00, and another item in that plant for a coal shed for which they paid North Shore \$800.00, for a total of \$11,800.

XQ. What was North Shore's rental expense for these

properties? A. These were properties that were owned by North [2130] Shore.

XQ. I don't believe you have told us how it was determined that Merrimack would pay \$11,800 for this space. A. Oh, that was, again, a joint use of properties which was allocated between the two users, based on a square foot occupancy.

XQ. Do you know the respective square footage occupied by both? A. Offhand I don't, sir, but that will be included in the data which we have agreed to submit to you.

XQ. Now turning to your study of the executive and administrative expense, with what NEES official did you confer or consult with regard to those projections? A. The only conferences that I recall were in the initial determination of the duties and responsibilities of the existing executive and administrative staff. So far as my pro formed executive and administrative personnel requirements, to my knowledge in my part of the study I did not consult with any NEES officials. Of course at the conclusion of the study, the entire thing was presented to our client, but in my determination and in my development of the requirements for the pro forma organization, as I have stated before, we set this up on the basis of what was required to operate a gas company.

XQ. Did you make any preliminary written report to Mr. [2131] Quig or anyone else of your estimates of the executive and administrative expenses, either on an independent company basis or on a pro forma combined company basis? A. No, sir, I don't recall any interim report. We were at all times in close contact with Mr. Quig in discussions, in discussing with him our evaluations, our judgments. No, I don't recall that there was any preliminary report submitted.

XQ. You mean by that that when you went to discuss the problems with Mr. Quig that you didn't have any pro forma

executive staff projected? A. Well, Mr. Nowlin, in the development of a study like this, where you are in the process of developing a pro forma personnel organization for independent companies, we would sit down and discuss the company by company, one company at a time, and I would outline to him the facts that I had gathered as to the size of the company, what I believe would be the requirements for the executive and administrative staffing of this organization. There were times when we got into differences of opinion between Mr. Quig and myself, but these were resolved without having the need for an interim report, but it was a continuing process of developing, of evoking this entire picture.

XQ. I assume that you would give a similar answer to your study on the inter-company rental arrangements, that you [2132] prepared no interim report on that? A. There was no interim report, no, sir.

XQ. Now directing your attention to Exhibit 58A, pages 526 and 527, under production, distribution and so forth, it appears that North Shore performs certain services for Merrimack for which North Shore billed Merrimack a total of \$12,800 in 1958. Since it is assumed that these services will be discontinued after the severance, why doesn't North Shore effect a savings to offset its loss of \$12,800 income from Merrimack? A. May I have that question again, please?

(Question read)

The Witness: In the case of the \$5,000 indicated on page 527, where it says that North Shore personnel serviced and maintained certain transportation equipment of Merrimack at the company's Beverly garage, there were vehicles which were jointly used by both North Shore and Merrimack-Essex under the pro forma independent operation. These personnel will still be required to service the vehicles

of the North Shore Gas Company. Therefore there would be no savings in that particular item.

By Mr. Nowlin:

XQ. How many vehicles were involved for each? I assume that is all automotive equipment, Mr. Simes; is that right? A. Yes, sir, passenger cars and trucks. There were five vehicles of Merrimack that were jointly used and in addition [2133] to that, the vehicles of Merrimack-Essex which operated out of the Beverly area were also serviced by the North Shore Gas Company.

XQ. How many, do you know? A. I don't have that figure just offhand. This is primarily the five jointly used vehicles.

I believe I misspoke. I think it was six vehicles, rather than five.

XQ. How many for North Shore? A. I don't follow your question.

XQ. How many vehicles all together were serviced from the garage? A. In that particular garage, I don't know offhand, sir. I mentioned the six that were jointly used, which were serviced by the North Shore Gas Company in the Beverly garage.

XQ. If you don't know how many vehicles are serviced, Mr. Simes, how do you know how many personnel will be required to service the vehicles on a pro forma basis? A. I said I didn't have the figure available right now. Obviously when I made this calculation and this estimate, I knew how many vehicles were being serviced in that particular garage. The figure I have with me right now, for example, is only a total for the vehicles of North Shore Gas Company, which is 33, but the detail that you are asking me is how many are in the Beverly garage and how [2134] many may be elsewhere. That I don't have right with me.

Mr. Nowlin: Could you supply us with that information?

Mr. Vorenberg: We would be glad to.

By Mr. Nowlin:

XQ. How about the remaining \$7800? A. The \$7800 that is indicated on page 526 is for the processing and executing of the meter orders, as it states here, for combination customers. Now under severance, you still have the same workload, you still have to process those customers, you no longer can process the electric and gas customers together.

XQ. Well, it wouldn't cost the exact same amount, would it? A. The allocation of the billing charges—this is, as you realize, a billing by North Shore to Merrimack. Now the basis of that allocation, as I recall it, was based on—I believe it was based on the number of customers. Now, when they are segregated, you still have the same number of gas customers, the same number of electric customers, which today even are combination companies. They take both electricity and gas. So the allocation would remain the same, the cost would remain the same.

XQ. Do you know whether or not there are any other similar instances of this kind in Exhibit 58A? [2135] A. Off-hand I don't know, sir.

XQ. Let's look at Exhibit 91. Under production, utilization and so forth, we note that under combined operations the estimated increase in expenses in this category drops only \$9900 as against the increase shown under independent operation. As I understand it, the drop of \$9900 represents the elimination of the utilization engineer by Mystic under combined operation. I think that is Respondent's Exhibit 91A, page 3. And all of the other items of increase remain unchanged; is that right? A. We are speaking now of the decrease from \$55,100 under independent operation to \$45,200 under combined operation?

XQ. That is right. A. A difference of \$9900. That is exclusively for the utilization engineer who under inde-

pendent operation was included in the Mystic Valley payroll and under combined operations is included in the Gas Division of the Central organization, as shown on page 8.

XQ. So that, aside from that item, everything else remains the same? A. I believe that is substantially correct, sir. The \$9900 applies specifically to the utilization engineer.

XQ. What consideration, if any, did you give to savings in production, utilization and so forth that might be effected [2136] under combined operation as distinguished from independent company operation, other than the savings of \$9900 shown for Mystic? A. In forming these organizations, the production, distribution, and utilization groups under independent operation or under combined operation would have to perform the same duties, the same functions of servicing the customers.

XQ. Now, Mr. Simes, throughout the reports here I notice reference to payroll taxes for the gas company. Would you tell us what that is and who pays it and who collects it and so forth? A. That is primarily the Social Security tax.

XQ. That is not a state payroll tax? I don't want to ask it if it is something you are not familiar with. A. I am just trying to recall. The payroll taxes included the Social Security Tax and the Unemployment tax. Those are the two items.

XQ. Those are paid to the state or to the federal government? A. The federal government.

XQ. Would you be a little more explicit about how they operate? A. In what manner? I don't quite follow you.

XQ. Well, take a concrete example. An employee of Mystic Valley Gas Company, for example, what does the payroll [2137] tax mean to him? A. It means a deduction in his check.

XQ. He contributes toward the Social Security or does

the company contribute toward the Social Security?

A. Yes, sir.

XQ. Is that the same way with Unemployment Compensation? A. No, sir. My recollection is that the Unemployment is solely company contribution.

Mr. Nowlin: Would counsel mind making a statement on the record about how this works?

Mr. Vorenberg: We would be glad to. You mean at this time?

Mr. Nowlin: If you know.

Mr. Vorenberg: I would rather refresh my recollection on it and make a statement at a later date.

Mr. Nowlin: Mr. Examiner, I think that is all we have of this witness at the present time. I might think up a few more questions.

Hearing Examiner: Well, the witness is excused.

(Witness excused)

Mr. Nowlin: May we have a five minute recess?

Hearing Examiner: Yes.

(Short recess)

Hearing Examiner: Let's come to order.

Mr. Nowlin: Mr. Quig.

[2138] Whereupon,

ROBERT S. QUIG

was recalled as a witness and having been previously duly sworn, was examined and testified as follows:

Hearing Examiner: Your name, please.

The Witness: Robert S. Quig—Q-u-i-g.

*Cross Examination*

By Mr. Nowlin:

XQ. Who conducted the negotiations on behalf of EBASCO with NEES officials regarding the Ebasco study and report? A. I did, sir.

XQ. With what officials did you confer? A. Mr. Irwin Moore, Chairman of the Board; Mr. William Webster, Mr. Robert Krause, Mr. Harry Hanson, Mr. Harold Dalbeck.

XQ. What assumptions or instructions were you given as a guidance for the conduct of the Ebaseco study? A. I would say, Mr. Nowlin, generally to do, putting it in very summary form, to do any and all things necessary to determine the effect of divorcement of these gas companies.

XQ. Were you requested to make any specific assumptions? In other words, who suggested the year 1958 as a typical year? A. I think I can help you on that this way: It was in April of 1959—that is two years ago now—it was the latter part of April. The latest available accounting data [2139] for these companies was the year 1958. The books had been closed; the reports had all been audited by Lybrand, Ross Brothers and Montgomery. The reports of all of these companies, both gas and electric, had been made available to the Department of Public Utilities, the Commonwealth of Massachusetts. In addition, studying the situation at the then time with the NEES people, in April, 1959, in view of the facts of the availability of data, I just mentioned, in view of additional facts that I set forth, I recall early in my direct testimony, as to the rationale with respect to 1958; namely, that there was no general national upset condition, there was no upset condition in New England, and particularly, and I think this is important since we are dealing with revenues and expenses from a technical point of view, the year 1958 was a year that approximated the normal degree day deficiencies in that area of these companies. Now that is highly important, as I am sure that your technical advisors can inform you, in appraising the results of gas company operations.

XQ. Did the NEES officials request you and your associates to make an independent evaluation or study of the NEES system to determine what supplements or what

functions could be curtailed? A. Well, certainly the study that we made, Mr. Nowlin, was to be completely independent and the judgments that we [2140] arrived at were our own judgments.

XQ. Well, now, what I am trying to ascertain is whether or not you made a study in the nature of an expert efficiency study of the NEES System to determine whether or not some of the functions might be supplemented or increased or whether or not some of the functions should be curtailed. Did you make any such study of that kind, sir? A. You know you and I had a discussion here the other day on this efficiency study of the kind you have had around here in the Commission building and I am sure you don't mean to imply that we did that kind of a study, where the usual study done by an efficiency expert does not recognize the facts of life as you find them. We certainly were directed by NEES and of our own volition we intended to make very sure that what we had here in the operation of these eight gas companies was sound wood, that it was economical and efficient, that there was nobody goofing off, so to speak, that the services that were being rendered were in the interest of the consumers. That is what we found. We found a most economically and efficient run operation.

XQ. As a result of your study, did you make any suggestions to the NEES officials for any changes in the system? A. No, sir, I recall none.

XQ. Or any improvements? [2141] A. Where they were running that system the way they were running it, Mr. Nowlin, it was and I have seen a lot of gas operating systems and electric systems in my thirty years, and I would say it was one of the most economic and efficiently run that I have ever seen.

XQ. Now, did they or did the NEES officials indicate to you that they were going to initiate a separate study on their own to parallel your study? A. They did not, sir.

XQ. At what point did you and your associates discuss your tentative views or final views as far as that is concerned with the NEES officials in respect of your severance pay? A. It was a continuing process, Mr. Nowlin. Obviously in any study of this nature there is the period of getting acquainted with the problem and I think it very important that we all here recognize what was the problem. We had these eight gas companies that had operating revenue deductions of approximately twenty million dollars, and I think that to get this thing in proper focus here, we did not disturb fourteen, fifteen million dollars of it at all. The area that we dealt with here and that you have cross examined my associates on, and in this report, the area that we dealt with here only dealt with, in the year 1958, about five million plus dollars of money. It was the area of the most people; it was the area of the most contact with customers. We had to become acquainted [2142] with a tremendous amount of detail. This was not a simple severance study as we have done in the past. We have eight companies to be severed from a situation and tied in with fourteen electric companies. So I think you can well see that there was, beginning in May of 1959, and continuing on through the summer and into the Fall, a long period of getting to know the situation, to understand it in its intimate detail, to get together data that was necessary for us to get together, to have NEES prepare for us basic data that is so essential to arrive at the conclusions that we ultimately had to arrive at in the next year.

XQ. I don't believe you have answered my question directly yet and that is at what point in the course of your study did you discuss and confer with the officials of NEES regarding your tentative views. A. Well,—

XQ. When I say officials of NEES, I am talking about Mr. Moore and Mr. Krause and these gentlemen you named as part of the negotiations.

Mr. Quarles: When you refer to tentative views, do you mean views with regard to existing operations or the conclusions that went into the final report.

Mr. Nowlin: Perhaps I should ask Mr. Quarles—Strike the question and let me start over again.

By Mr. Nowlin:

[2143] XQ. Let's take a particular phase of your report, Mr. Quig. Let's assume that Mr. Pearson, your insurance man, came up with his tentative views or final views. I assume he talked with you about it, didn't he? A. Yes, he did. He talked with me before he even started the study and—

XQ. And did he talk to you in the course of his studies? A. That he did, sir.

XQ. Now, in the course of reaching those—were they tentative views or preliminary reports he made to you or what kind of a report did he make to you? A. Continuing reports.

XQ. I assume you would discuss some of these ideas and would you reach a definitive conclusion? A. At that stage I would say that is a very good description of it, yes, sir.

XQ. Now, once you had reached an agreement with Mr. Pearson, were those tentative views or were they final views insofar as Ebasco was concerned? A. They were certainly final views insofar as we understood the facts at the then time. I think this is quite important because with a mass of data that we had, there are times when we would arrive at conclusions and in the continuing process and we had continuing discussions with the NEES people. Obviously we had to, and the further we [2144] got into certain things and additional information we obtained, there were times that we found, and rightfully so, that the additional information would lead us to a different conclusion than we had originally arrived at. That is the nature of any study.

XQ. Well, now, prior to the actual final report on the

estimated insurance cost, did you discuss any features of that report with the officials of NEES? I mean by that the top echelon. A. Yes, we did, sir.

XQ. Well, would you say that that was a joint conclusion reached by Ebasco with the officials of NEES? A. No, I wouldn't say that at all, sir.

XQ. How would you describe it? A. I would say that it was Ebasco's conclusion as to what the costs of severance would be in the insurance field.

XQ. Now, do the officials of NEES concur with that conclusion or what was the result of the conferences with them? A. I believe several of them testified in this proceeding and indicated that the results of the Ebaseo study they had reviewed and were in agreement with the pieces of that study.

XQ. At the time of this view is what I am trying to get at. [2145] XQ. Did they review your report on the insurance before it became a definitive part of the Ebasco report and did you make any changes or adjustments by virtue of the conferences with the NEES officials? A. We made no changes, no, sir.

XQ. Now I want to take you over to the same type of questioning on the customer accounting. A. Yes, sir.

XQ. Mr. Johnson, I assume, discussed in the course of his report, the preparation of his report, the different matters and items with you, didn't he? A. Continuously.

XQ. Can you tell us just the sequence of what happened with respect to that particular report? A. Yes, sir.

XQ. Would you do that, please? A. Johnson went to—he was one of the first people to go there, along with certain of our accounting people—the accounting people. Of course we found it necessary to decide early how we were going to do the study and it soon became apparent to us that you had to do such a study on what we have called here a functional basis. Now, Mr. Nowlin, a functional basis is

one thing and to get it translated back to something that would be understandable for this honorable Commission to consider against the year 1958 required [2146] a number of accounting adjustments that would have to be made because a functional study is one thing and the way that the data ultimately lies in the accounting process is something else. So we decided very early in the game that we would need competent accounting people from the Ebaseo organization on the job and while Johnson in his area and I think this exemplifies it, while Johnson was looking at the customer accounting aspect of it, we were very cognizant that we needed to ultimately translate our findings back to some pro formed basis that would have reasonable comparability with the way the accounts were carried in 1958. Now, then, with the results of the independent functional studies such as Mr. Johnson made, our accounting people translated that data, going through all of this and I admit it is a tremendous amount of detail that you have seen here, translated that material back into a form which was exactly comparable for study purposes with the way that NEES carried its books for these gas companies in 1958. We prepared the pro forma functions, Johnson in the customer accounting area and we could have left it just at that basis, I suppose, but we felt that you in your depth of penetration would certainly cross examine with respect to that and it would not be comparable if left on the functional basis with the way the books were kept in 1958. Therefore we made these accounting transitions, clearing accounts, capital accounts, expense [2147] accounts that you see. During that process, people like Johnson were constantly bringing in their findings, aligning the data up, having their discussions in the field with the appropriate NEES people, revising their thinking as it went along, as new facts came into the picture. And it was not until early in January of 1960 that we had brought all of this collection of pieces together,

still in a work paper stage, I would say. Then we sat down and wrote the reports.

XQ. Well, now, who decided that there would not be any recommended changes in the customer accounting procedures that had been adhered to previously by the NEES System? A. Well, when you say recommended changes, Johnson went into the field. I had been over the area myself—sized up what in the trade was called the workload and manned the workload. Now, in the process of manning the workload, Ebaseo used judgments that we have arrived at through doing similar work in a number of places. In the customer accounting area, Johnson, for example, had only recently helped staff the whole Public Power Corporation of the kingdom of Greece, just to mention one item. He had done the same thing for other companies in this country. Obviously, Mr. Nowlin, he didn't hit a bull's eye right at the beginning, right at the very minute, and we all would overlook certain things. As our horizon broadened, as we gained more facts, of little things, we of our own volition would change our [2148] concepts. Now I will tell you a good example of that, and I think this may help you understand the nature of the work that we performed. We have had quite a bit of experience in the area of meter readers, with unions, and knew some of the growing amounts of restrictions that unions are imposing on what a meter reader can do. Some places he reads, puts it in the books and gets out. Some places he can't even inform the housewife that she has a leak in her pipe. Some places the meter reader will not read in inclement weather due to the inclusion of inclement weather clause. Johnson staffed the meter reading setup for these eight companies without sufficient realization that Mr. Dalbeck had been able to negotiate with unions and did not have an inclement weather clause.

Now what are we talking about here? New England is

graced with the beautiful weather in the summertime, but it has rough weather in the wintertime and it comes under the definition of inclement and you can have anywhere from fifteen to twenty-five days of inclement weather. Now, with a company with anywhere from five to fourteen meter readers, the loss of fifteen to twenty-five reading days can be important. Translate that into reads, translate that into billing, translate that into revenue and you have an economic wave breaking on your shore which has got to be rationalized. There is an area you can say, if you want to, well, my heavens, [2149] didn't you—that is one of the first things you might have asked for—and we were not cognizant until we got along a bit of the strictness with which the NEES companies had been able to handle their meter reading operations. When we learned, and we tested by review ourselves, of the labor contracts, we obviously readjusted our sights in that particular area. Now there are successions of processes like that that went along, Mr. Nowlin, continuously. Obviously—

XQ. Pardon me. If I may, I would like to interrupt at this point. You mean that those revisions were made after discussion and conference with Mr. Dalbeck; is that correct? A. Yes, sir, or people in the company level. Now, I am sure that you would consider that we would have been derelict in our duty if we had not so informed ourselves as we went along.

XQ. Now still trying to at least get a general area of pinpointing, Mr. Quig, when Mr. Johnson came up with his views and working papers or whatever you want to call them, I assume that you and he sat down and went over these estimates that he had made to determine what your final conclusions would be. A. In his whole area, meter reading, cashiers, people to get out bills.

XQ. Now, did you also, you or any of your associates, also sit down and discuss these—I will call them tentative—

[2150] if you have a better word, I would be glad to have it—these tentative conclusions with any officials of NEES to determine whether or not they were in agreement with them or not? For example, Mr. Hanson? A. No, no, definitely. We did our work like the new Peace Corps, down in the ditch with the folks and—I am serious in that, Mr. Nowlin—and we carried it along at the working level, which is the only way you can do these things and I will say this, that after we got through at the working level, there was never one change. When we got this report put together, there was never one change of any dollar effect and we discussed our ultimate findings with NEES officials.

XQ. Now, does that also hold true with the study on the general accounting area? A. It holds true across the whole functional area that we looked at, sir.

XQ. Now, you correct me if I am wrong. I am operating on memory, but I seem to recollect, sir, that Mr. Dalbeck testified that he was in disagreement with the principal of whether or not you have centralized accounting, that he came to the conclusion that there was no material difference to be reached or gained. Do you recall that? A. I don't recall. I thought you were asking me as to whether we changed our views. I can't speak for Mr. Dalbeck, [2151] whether he is with us or against us at this stage. I don't know. I know that what we have rode through.

XQ. As I understood your testimony, it was that there had been no disagreement between you and your associates and the NEES officials.

Hearing Examiner: No. The witness testified, as I caught it, that when they had their final conferences, so far as Ebasco was concerned there was not a dollar change or change of viewpoint. Is that right, Mr. Quig?

The Witness: That is correct, sir. I do not know what mental reservations certain of the NEES people might

have had, but my heavens, all of us who work along together at times may have certain mental reservations, but this is the Army—I mean the decision is made and along you go.

By Mr. Nowlin:

XQ. Do I understand—I am not trying to—in fact, I am trying to understand. It is pretty difficult to catch what you are saying and compose my question at the same time, but did I understand that nowhere in your Ebasco report did the Ebasco officials or Ebasco staff arrive at an independent conclusion of their own that differed from the ultimate conclusion that is reflected in the report? A. I know of none, Mr. Nowlin.

XQ. You know of no instance where you or your associates revised their estimates to coincide with the views of the [2152] officials of NEES? A. Definitely not. Why would we? We were doing an independent study, sir, and I would not call such a study independent.

XQ. Page 677 of the transcript you testified, and I quote —this is part of the quote—“We met with them repeatedly and at length”—That means the NEES officials or personnel. “—asked questions, reviewed the material they had prepared, including their estimates as to the effect of severance and throughout the whole period of our study tested our conclusions by discussions with them. In this sense the study represents a joint project in which we all participated.” Now, is that inconsistent with what you just said? A. No, I don’t think it is, Mr. Nowlin, at all. I believe this corresponds exactly to what I said, that we worked closely with the NEES personnel. That is when I made the reference that we were in the ditch. You asked me a bit ago as to—

XQ. I want to read on down further. A. You asked me as to officials. Now I make a distinction, sir. We worked constantly and I want this record to show that we worked

constantly with the NEES people at the grass roots. That is the only way you could do a complex study like this.

XQ. What is meant by this portion of the quote, "including [2153] their estimates as to the effect of severance." Whose estimates were "theirs"? A. Well, the situation there would be somewhat like the meter reader situation that we ran into. I remember quite pointedly Mr. Dalbeck saying, well, now, here you have got a lot of people here on meter readers. What is the basis. Well, we counted for fifteen or twenty-five days of inclement weather. Well, there is no such provision in our union contract. Now, that is the only way that a study like this could be done.

XQ. Doesn't this language, Mr. Quig, indicate that a severance study was made by NEES personnel? A. Well, I don't so interpret it, sir.

XQ. And then the last sentence, "In this sense the study represents a joint project in which we all participated," not an independent project by Ebaseo; isn't that correct? A. Well, if you want to take my example of getting down into the ditch with them and working along because we had to get data and tremendous amounts of detailed data from the same source, to that extent it was a joint project. We were all going to the same well for our information and we had to have an awful lot of it interpreted, I want to tell you, because it is a complex situation. When the smoke cleared away, the judgments that we arrived at as to what we were going to recommend in the report were our own, sir.

[2154] XQ. Did the NEES personnel make any estimates as the effect of severance, to your knowledge? A. Well, in a situation—again if I may belabor the meter reader situation—certainly Mr. Dalbeck said if you allow for so many days times so many meter readers, you will come up with "X" less meter readers than what you have in this thing. Now, you can call that, I suppose, an estimate of

the effect of severance, giving effect to more facts than we had given effect to.

XQ. Well, did the officials of NEES have any suggestions to make to you and your associates about the executive and administrative staff which would be set up either for the individual companies or on a pro forma combined basis? A. None that I recall. It was part of our responsibility to analyze the situation and come up with what was necessary to man these eight severed companies on an independent basis, to stand alone in this world.

XQ. In other words, you did not seek the views or obtain the views of Mr. Moore, Mr Krause or Mr. Hanson or any of the other top echelon? A. We certainly did not. That is what we were being paid to do, sir.

XQ. Do you know whether or not any of the NEES personnel or officials made a severance study? A. I do not, sir.

[2155] XQ. Directing your attention to your testimony on page 678, I notice in the middle of that paragraph you say, "We were, of course, vitally interested in the views and judgments of the NEES people. As a practical matter, I cannot recall any significant area when we and the NEES people had explored the problem in depth and had done such further research and analysis as the area of disagreement required that we did not find ourselves in general agreement on what appears in our report." Isn't a fair reading of that, Mr. Quig, indicative of the fact that you did have conferences and consultations with the NEES officials to obtain their views on the various subject matter covered by your report? A. Well, that would naturally follow in the course of things, of doing the study.

XQ. Doesn't that indicate just the reverse of what you were talking about, that this represented your complete independent thought without your discussion and conferences with the NEES officials? A. I don't think so at all,

sir. I mean this is explaining an orderly process of development, of developing a study.

XQ. What did you mean there "any areas of disagreement". A. Things that I mentioned just a bit ago, sir. As we obtained more facts, as it says right here, when we had explored the problem in depth,—I think it might have helped [2156] you now to have said "in greater depth".

XQ. Well, there are two particular sentences in those two paragraphs that are rather indicative to me. One of them is the effect of the severance—that is rather a word of art—and the other was disagreements in consultation were ironed out. That would certainly indicate that there were some conferences and consultations held with the NEES officials. A. There were, sir.

XQ. And that the ultimate result was really not your own independent judgment, but a mutual conclusion by Ebaseo and the NEES officials. Is that a fair inference? A. Sir, that doesn't indicate though that anybody twisted my arm and made me change my mind.

XQ. I didn't say that. A. Well, I get that inflection in this situation here and I would certainly not want this record to stand on that basis. We did this on the very practical basis and did it in depth and when we could not arrive on some matters, which there are none that I would recall, but we have enough professional competence that we knew that ultimately the conclusions that were reached were going to be our own and we would have to stand on it.

XQ. Now you didn't make any particular study of any particular area yourself, did you, Mr. Quig; that is, you didn't [2157] do any field studies, you didn't prepare any particular section of this report. As I understand it, your function was more or less that of reviewing it and discussing and reaching conclusions with such associates; is that correct? A. My function, as I stated in my direct, was the responsibility for adequate performance of all Ebaseo

people who were expert in their fields and at their respective levels. We brought people into this situation that were competent in various specialized fields. I was the coordinator of this whole operation. I was responsible for these people arriving at the conclusions after their study in depth and for getting the whole situation put together into the report which is the subject matter of 58A and 58B and Exhibit 91.

XQ. What is meant, Mr. Quig, by your testimony that you had done such further research and analysis as the area of disagreement would require if we did not find ourselves in general agreement with what appears in our report? Does that then indicate that there were areas of disagreement between you and the NEES officials?

Mr. Quarles: Mr. Examiner, that question has been asked and answered several times and the reference that he is using is to NEES people and not to NEES officials. I think the witness has distinguished between that.

Mr. Nowlin: I will read down and quote it. I will leave it to the NEES witness, Mr. Quarles, and the only [2158] NEES witness, Mr. Quarles, that appeared here were the officials of NEES, so I assume that is a proper conclusion to draw, that he is talking about the NEES officials. But he can answer it.

By Mr. Nowlin:

XQ. Doesn't this clearly infer that there were disagreements between you and your associates and NEES officials?  
A. I do not so interpret it. I guess it is—what we mean by disagreement, the situation I described on the meter readers was a disagreement up to a point.

XQ. Now, the section I am reading here now is not talking about meter reading. A. No. I was using that as an example. I am trying to help along in the cause here. It wasn't just one grand honeymoon when we started out and got along on it, obviously not, and if you want to call it—

quote "disagreement"—unquote, it arose from the fact that it took us awhile to get our feet on the ground and understand the inter-company transactions that existed between eight gas companies and fourteen electric companies, which was a complex situation. Now, as we got along, we had discussions with NEES people in the field, and we obviously would come up with a comment which early in the game it was quite apparent that we didn't know what we were talking about because we hadn't sufficient depth, but I tell you by the time August, September, and [2159] October rolled around, why we were on much better ground.

XQ. If, Mr. Quig, the Ebaseo reports represent independent judgment of Ebasco, why should you even discuss this matter with the NEES officials to ascertain whether there were any areas of disagreement? A. Mr. Nowlin, in my thirty years of experience in the utility business, I have learned long ago not to go off the deep end in the development of a report involving matters as complex as what we were dealing with here. We could have pursued a new route, I suppose, and/or the route that I perceive that you have in mind from this question and we would have come up with a report which would have been practically useless because by not having knowledge and depth of these many situations that we were dealing with, it would have soon been apparent that we had something that was completely worthless. Now, as we went along here and as the areas that you are quoting from say, we explored the problems in depth, did further research and analysis, which all of it, it would seem to me then, and I may say so it seems to me now, seemed to be an orderly process of doing this.

XQ. I have no criticism of this, Mr. Quig. I was trying to ascertain what you meant by your testimony.

What services has Ebasco performed for the NEES system prior to your present assignment? [2160] A. In some ten years—no, let me go back a minute. The Ebaseo

services, Inc. had some responsibility and were engaged in connection with construction of a hydroelectric dam at Littleton, New Hampshire, on the Connecticut River for one of the NEES subsidiary companies.

[2161] The Witness: (Continuing) In addition, before gas had come to New England areas, when it was in the process of coming to New England, Ebasco performed some studies of an economic nature as to the market that would be available for gas in the area of these companies.

By Mr. Nowlin:

XQ. Now, was that study that you made preliminary to the previous offer by NEES of the sale of its interest in these gas companies? A. Do you have the date, sir?

XQ. It seems to me like the sale and the offer were made somewhere in 1951 or 1952. I will ask counsel for respondent to supply that.

Mr. Vorenberg: It is in the direct testimony.

The Witness: Yes. I recall that, to my memory, it was with the coming of, the advent of the gas pipe lines into New England:

XQ. Is that the study you were just referring to? A. The study I am just referring to is the one you refreshed my memory on as to the date. It was a study made in the situation that you have described.

XQ. Now, has Ebasco performed many other services for NEES in the past year? A. I know of none, other than the two that I just mentioned, sir.

[2162] XQ. Do you know whether or not Ebasco have performed any consulting services for any particular departments in the NEES system? For example, with respect to taxes or insurance? A. I know of none, sir.

XQ. Ebasco was not on a regular retainer basis, was it? A. Ebasco was not, no, sir.

XQ. Do you have any agreement or understanding with

the NEES officials, regarding the performance of any future services that may be required? A. No, sir.

Hearing Examiner: Off the record.

(Discussion was had off the record.)

Hearing Examiner: On the record.

XQ. Has Ebasco made any previous severance studies in the past for other situations? If so, please identify them. A. May I rely upon that portion of my direct testimony which cites that in some detail?

XQ. All right.

Did not Ebasco make a severance study for Louisiana Power and Light Company regarding the separation of its gas and electric properties? A. We are discussing here a matter of labels again, I think, Mr. Nowlin.

XQ. Make it for the Middle South, whichever you prefer. [2163] A. I don't want to be picayunish about the terminology. It was, I believe, an economic study as to what would happen if the gas property of Louisiana stood alone.

XQ. All right. A. Well, there is a slight difference, I am told by my legal friends, and I respect their judgment in the matter.

I would not want to put it in the category of this, which is a gas severance study.

XQ. Did you not make also a study—make an economic study or severance study in connection with the New Jersey gas properties? A. Yes, sir.

XQ. And the GPU? A. Yes, sir.

XQ. So it can be assumed that Ebasco is thoroughly familiar with the issues involved, usually involved, and the factors generally considered by the Commission in Section 11(b)(1) severance proceeding.

Is that correct? A. Well, sir, you are asking me to pass on what I think is a legal judgment, on what Ebasco considers. I don't know that I am quite able to answer that.

XQ. Well, from the basis of your previous severance

studies, and testimony before the Commission in other cases, isn't it reasonable to assume that Ebasco is pretty familiar [2164] with the different factors considered by the Commission in the previous decisions, in Section 11(b)(1) cases? A. In a general way, I would say so. Definitely.

XQ. Is it therefore fair to assume, Mr. Quig, that Ebasco is aware of the fact that the greater the loss of economy that can be shown, the fatter the chance for the company's retention of gas and electric operations? A. May I have that again, sir.

(The question was read by the reporter)

The Witness: Well Mr. Nowlin, I certainly have no views on that either pro or con.

XQ. Now, I believe you were present when Mr. Webster testified, were you not, Mr. Quig, on Direct? A. I was. Yes, sir.

XQ. Directing your attention to pages 656 and 657—the question at the bottom of page 656, "Turning now to another subject, have you had studies made which show the loss of economies which would result if the NEES Gas Company were assumed to be separated from the system?"

And the answer: "Yes, we have."

Question: "Were these studies made by your own organization or by outside professionals?"

Answer: "Both.

"In the spring of 1959, we engaged Ebasco Services, Inc., of 2 Rector Street, New York City, [2165] "to make such studies and at the same time, directed our own organization to make such studies, the two groups to work together in the gathering of material."

Are you in accord with that testimony? A. Well, Mr. Webster's testimony speaks for itself.

XQ. Well, do you agree with his interpretation of the situation? A. Well now, I know of no separate and independent study that NEES was pursuing.

If they were, it was news to me, sir. There may well have been. I don't know.

XQ. Then you do not agree with this portion, " \* \* \* to make such studies and at the same time, directed our own organization to make such studies, the two groups to work together in the gathering of material?"

You know nothing of that? A. Well, I tried to explain here that due to the complexity of the situation that we had involving eight gas companies and fourteen electric companies, it was highly important that at the grass roots level, we get together and get our basic data and that is exactly what we did.

That was just in the interest of economy and efficiency, and it was important that we whom came in, in April, and had to learn the hard way, quickly assimilate some things which of course, the NEES personnel knew through [2166] their long years of working on the system. Therefore, we made some mistakes as we went along, which discussions with them as to interpretation soon corrected.

Once we arrived at a point of having basic data which we thoroughly understood, we went our merry way and arrived at our conclusions.

What NEES did with the same basic data that we all had to work with, I am not advised, sir.

XQ. Now, when Ebaseo was given this assignment, were you asked to make any evaluation of the advantages and benefits that might accrue to the gas companies as a group in the event of severance from the NEES system? A. Yes, sir. We were asked to determine the advantages if any, as well as the disadvantages.

XQ. Now, did you make any specific study of the advantages that might accrue from separation? A. Yes, we did, sir.

XQ. Did you find there would be no advantages? A. That is exactly what we found; that there would be none.

XQ. Did you reduce that study to writing? A. I would say that the whole gammut of material that you have in 58-A and 58-B, is that study, sir, and it discloses that the dollar effects—insofar as the dollar effects are concerned—the degree to which [2167] there are disadvantages.

Certainly, in the whole area that we have studied from a dollar—from a tangible dollar point of view, or intangible point of view, we could not find any advantages because of the highly economic and efficient manner in which these gas companies are operated jointly, with the electric operations.

XQ. And you found no advantages with the Management tending strictly to the operation of gas properties, rather than the joint operation of electric and gas properties? A. Well, the management that I have in mind, that ran these gas properties, tended strictly to the operation of the gas properties.

XQ. Have you made any survey or re-study of the previous cases, where the gas and electric have been severed, to determine what benefits if any were accruing to the gas companies by virtue of their being severed from the electric operations? A. Such a study would be a sizeable undertaking, and there would have to be taken into account all the vast economic changes that have come about.

I did have Mr. Cahal in his marketing area, study some what I like to call before and after results; before severance and after severance of some companies [2168] such as you described, and frankly, we are not impressed with the results "after".

XQ. Do you have the results of that study available? A. I do not. No, sir.

XQ. Is it obtainable, Mr. Quig? A. Those were some notes that Mr. Cahal had. I believe he made reference to them when he was on the stand; particularly I can give it to you from memory, that sales per customer for example, in

certain severed companies, there had been no perceptible change since the point of divorce ment.

XQ. What companies were those, Mr. Quig? A. At the moment, I cannot recall. They were in the south.

XQ. For what period was that study made? A. I told you, I could not recall the details.

XQ. Now, do you know what is commonly referred to in the industry as a "shake down period". I think Ebasco used that term on a previous case. A. I have the general understanding, I think, of what you are driving at.

XQ. Does the Ebasco report give any consideration to possible savings in operating costs of the eight combined NEES gas companies, in the shake down period following the year of severance? [2169] A. Our whole concept in setting forth the basic financial data that are in these reports, is that they would be well shook by the time they reached the point.

XQ. You made no study to determine whether or not the benefits would ultimately accrue? A. I said we did. I said that we took into account that this would be beyond the shake down period, and would be in an area where this is what we could expect on a year to year basis, and I have my doubts, sir, if I may add, the way your whole price levels are going, that if we were to do this today, we would have a different set of figures entirely—higher costs, materially higher costs.

XQ. You probably also have higher per book cost, would you not? A. I beg your pardon?

XQ. You would probably have a higher per books cost too, would you not? A. You will have to explain that one to me.

XQ. I think that you stated, if you were starting now, you would have to start with higher pro forma costs. My point was, that you also start with a higher per books

cost. Is that correct? A. You obviously would start with the same comparable period, yes, sir.

[2170] XQ. Mr. Quig, among the companies that you stated that you had made an observance of the after effects of severance, did that include the New Jersey Gas Company? A. I think it did.

XQ. Do you know what their record has been? A. Yes, I do. I live in that area.

XQ. Well— A. They have had growth beyond all of man's comprehension—a thing you would never get in New England, of that magnitude.

XQ. Well now, you made a lot of projections here. A. I do not see, Mr. Nowlin, that you are going to get in the area of these eight gas companies, the magnitude of growth that has been achieved in the present areas of the New Jersey Natural Gas Company. For another client, I recently made quite an intensive study of that situation. It is fantastic and for basic economy reasons, which do not exist in the New England areas. It is not comparable at all to the situation we have in discussion here in New England, of these eight gas companies.

XQ. Did you, or your associates, attempt to make any appraisal at all of the question of whether or not the eight severed gas companies could obtain some portion of the required services from a service company more economically than it can do the work itself? [2171] A. Certainly, the services, certain legal and auditing services, we contemplated would be acquired from organizations in that line of business. We did not utilize any service organization for the executive-administrative staff, accounting, new business operations, which were to be performed on a day-to-day basis and which are so necessary to the adequate operation of a company.

We did contemplate the utilization of service organi-

zations for the unusual; the peak load concept; the rate case, for example, but in our study, we included no dollar costs for the utilization of such a service organization.

XQ. Are you familiar with the background of the Middle West Service Company? A. Within reason, I am.

XQ. Do you know how it was set up as to who the owners and operators of the service companies are—that service company? A. Only in a very general way, sir.

XQ. Are you familiar with any instances in the utility industry where there are mutual service arrangements between non-affiliated utility companies? A. There are a few. I don't recall them right now, sir.

XQ. Did you, in your Ebasco report, give any consideration [2172] to the possibility that these eight NEES gas companies might form a mutual service company for their own benefit? A. Well, of course, in the formation of the combined operation, as I have testified, we founded it upon the basic organization you have today in the Gas Division, and staffed it with the additional personnel. That, I think, in some degree, answers your question of what you are seeking.

If you mean did we contemplate after we had formed the organization, that we did form, and set forth these exhibits, did we contemplate forming some sort of a cooperative operation, no. We did not.

XQ. Well, did you give any consideration to the fact that the NEES companies might establish a mutual service company comparable to that of the Middle West Company, in which it could render technical services to both the gas and electric company? A. No, we did not, Mr. Nowlin. I guess I have been brought up too long in the atmosphere that, to be successful, a business has to be run for a profit, not on a mutual basis.

XQ. Well, is it not the essence, Mr. Quig, of the Ebasco Service Company, to render services to utility companies on a cheaper basis than it does to others? A. Not since January 1, 1961, sir, and such services as we rendered before that time, were rendered pursuant [2173] to orders of this Commission on the then existing basis.

XQ. Do you know whether or not there are any mutual service companies rendering service to non-affiliates, at cost, plus we will say, six percent on the invested capital? A. I would not know, Mr. Nowlin.

Mr. Nowlin: I think that is all at this time.

Hearing Examiner: Shall the witness retire from the stand?

Mr. Quarles: If you please, sir.

Hearing Examiner: All right. You may retire from the stand.

Mr. Nowlin: Mr. Examiner, I would like to request, on behalf of the staff, that the hearing be recessed until Monday, April 24, at 10:00 o'clock.

Hearing Examiner: I understand that that date has been agreed on by all counsel and the hearing will now stand in recess until 10:00 a.m., April 24, 1961.

(Whereupon, at 4:20 o'clock, p.m., the hearing was recessed until Monday, April 24, 1961 at 10:00 o'clock, a.m.)

#### PROCEEDINGS

[2175] Hearing Examiner: Let us come to order, gentlemen. The hearing will now be resumed.

Mr. Vorenberg: Mr. Hearing Examiner, during the course of cross examination by the staff during the period from April 5 to April 10, the staff requested that we obtain certain information to assist them in connection with this case. It seems to us that it would be appropriate at the

outset to introduce this material and have appropriate exhibit numbers assigned to it. I understand that that procedure is satisfactory to Mr. Nowlin.

Hearing Examiner: I should think that would be a good idea.

Mr. Vorenberg: I might say that the substantial portion of this material has already informally been made available to the staff so that they would have some opportunity to review it before resumption of these hearings today.

The first item is in response to the staff's request, page 1723 of the transcript, for insurance costs for the year 1958, with those for the other years, during the period of 1954 through 1959. In response to that request, we offer as an exhibit the attached two sheets, the first of which is headed "New England Electric System, Gas Subsidiaries-Insurance Coverage in Effect (except group annuity) annual cost per policy billing", and which shows the figures for [2176] the year 1954 through 1959.

The second sheet is headed "New England Electric System Gas Subsidiaries Summary of Insurance Charges affecting Account 671 for the years 1954 through 1959."

I would suggest that these be admitted as Respondent's Exhibit 107.

Hearing Examiner: Let these two pages come in as one exhibit, Respondent's Exhibit 107.

(Respondent's Exhibit No. 107 was marked for identification and received in evidence.)

Mr. Vorenberg: Next I refer to Mr. Nowlin's request which appears pages 1809 and 1811 of the record for the commercial cost per customer for the year 1958 for the five electric companies of the NEES System that conduct joint operations with gas companies as shown on the returns to the Massachusetts Department of Public Utilities. In response to this request, I offer a single sheet headed

"New England Electric System Five Electric Companies, Commercial Cost Per Customer, 1958." I would suggest that this be admitted as Respondent's Exhibit No. 108.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit No. 108 was marked for identification [2177] and received in evidence.)

Mr. Vorenberg: The next four items which are being furnished in response to the request of the staff were drawn by Mr. Simes from detailed working materials to supply the staff with the additional details they requested. First I refer to Mr. Nowlin's request appearing at page 1942 of the record for an itemization of the \$53,400 figure for distribution of the clearing accounts shown on page 40 of Exhibit 91. In response to this request, I offer the attached sheets entitled "Distribution of Clearing Accounts Between Operating Expense Accounts and Plant and Other Accounts Under Combined Operation (Exhibit 91)". This consists of a descriptive text and table showing the source of changes and charges to clearing accounts under combined segregated operation and the distribution of these charges between operating expense and other accounts.

Hearing Examiner: Are you offering this?

Mr. Vorenberg: I would suggest this be admitted as Respondent's Exhibit 109.

Hearing Examiner: The paper and its attachments as you have described them, Mr. Vorenberg, are admitted as Respondent's Exhibit 109.

(Respondent's Exhibit 109 was marked for identification and received in evidence.)

[2178] Mr. Vorenberg: The second of the four items in this group relates to Mr. Nowlin's request appearing at pages 1986 and 1987 of the record for more detailed explanation of the difference between the figures \$188,200

and \$205,900, appearing on page 2 of Exhibit 105. In response to this request, we are offering the attached sheets entitled "Explanation of the Derivation of the Increase in Charges to Operating Expenses on Account of Executive, Administrative and Staff Costs as Shown on Page 2 of Exhibit 105." This consists of an explanation and table with notes showing the derivation of each of the figures at the bottom of page 2 of Exhibit 105. I would suggest that this be admitted as Respondent's Exhibit 110.

Hearing Examiner: This exhibit is so admitted in evidence.

(Respondent's Exhibit 110 was marked for identification and received in evidence.)

Mr. Vorenberg: In connection with Exhibit 110, which has just gone in, I refer to Mr. Nowlin's request at pages 1956 and 1957 for information as to the amount of pro forma engineering payroll for the eight gas companies that was capitalized. This Exhibit 110 shows on the table at page 2 that the total pro forma executive, administrative and staff payroll charged directly to plan account is \$20,600, as compared with \$20,000 actual for 1958. I have checked and I am informed that \$15,500 [2179] of the \$20,000 actual amount and \$16,800 of the \$20,600 pro forma figure represents charges for gas division and pro forma engineering payroll costs respectively.

Moving to the third item in this group of four, at pages 2011 through 2014, Mr. Nowlin requested some detailed information concerning rental costs for IBM equipment and allocations, cross billings in connection with this equipment as discussed in the third paragraph, page 445, and Exhibit 58A. To meet Mr. Nowlin's request, we would offer this tabulation entitled "Mystic Valley Gas Company—Suburban Electric Company—IBM Machine Rental Allocation" and suggest that it be admitted as Respondent's Exhibit 111.

Hearing Examiner: Let the exhibit come in under that exhibit number.

(Respondent's Exhibit No. 111 was received in evidence.)

Mr. Vorenberg: Turning to the fourth of this group of four, at pages 2104 through 2109 we were requested to supply information as to space jointly occupied by the seven gas companies, other than Lynn Gas, including the amount of space occupied and the allocation of cost. In addition, we were requested to supply information as to the pro forma space requirements and cost of these gas companies. Since Norwood has no projected increases in rental costs, this material relates to six companies. In connection with these summaries, I should mention that they show the allocation of the total space occupied between gas and electric, even though substantial amounts of such [2180] space are actually used jointly for combination gas and electric activities.

I should also mention that it has often been the practice of the NEES companies to include payroll and fringe benefits of janitors, telephone operators and other items in the total cost of joint space and including such amounts in the rental charges. Therefore, the costs shown for actual rentals are not comparable to the pro forma costs of new space which would not include such items. It should also be noted that the total square foot areas shown for present space occupied include in certain instances larger amounts of general use space such as basement storage areas and so forth, with no comparable amounts of such space being included in the pro forma requirements for new space. To meet the specific request, we offer the 12 sheets, two relating to each of these six companies, and suggest that it be admitted as Respondent's Exhibit 112.

Hearing Examiner: The exhibit which is headed "Joint

Space Occupied—1958" is admitted as Respondent's Exhibit 112.

(Respondent's Exhibit No. 112 was marked for identification and received in evidence.)

Mr. Vorenberg: Information on Exhibit 112 also provides Mr. Nowlin with the answer to the request he made [2181] concerning Wachusett Gas Company and Worcester County Electric Company, at pages 2076 and 2077.

At pages 2133 and 2134 Mr. Nowlin requested information as to the number of vehicles serviced at the garage in Beverly. I have had this checked and am advised that a total of 33 gas company cars and trucks of North Shore Gas Company were serviced and repaired at the Beverly garage. In addition, 15 cars and trucks of Merrimack-Essex Electric Company were also serviced and minor repairs made at the Beverly Garage.

In addition to the material I have referred to so far, the staff made two requests off the record for additional information. The first of these was the population and customer figures for the year 1960 for each of the towns served by the eight gas companies. I have here eight sheets, one for each gas company, setting forth this information and I would suggest that these eight sheets together be admitted as Respondent's Exhibit 113.

Hearing Examiner: Let the exhibit come in under the number suggested, Exhibit 113.

(Respondent's Exhibit No. 113 was marked for identification and received in evidence.)

Mr. Vorenberg: The staff also requested off the record that a tabulation with respect to the rate of return [2182] for the eight gas companies for the years 1958 and 1959. To meet this request, we would offer a sheet entitled "New England Electric System, Massachusetts Gas Companies, Rate of Return Data", being a rate of return computation,

and suggest that this be admitted as Respondent's Exhibit 114.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit 114 was marked for identification and received in evidence.)

Mr. Vorenberg: Just this morning Mr. Nowlin asked if we would introduce the 1960 annual report of the New England Electric System as an exhibit and, of course, we are perfectly willing to do so and I would suggest that that be admitted as Respondent's Exhibit 115.

Hearing Examiner: The annual report is admitted as Respondent's Exhibit 115.

(Respondent's Exhibit 115 was marked for identification and received in evidence.)

Mr. Vorenberg: Finally, Your Honor, at pages 2136 and 2137, Mr. Nowlin asked counsel for Respondent to make a statement for the record concerning payroll taxes. I believe the following is a summary of what Mr. Nowlin will want:

The Federal Social Securities contributions by the [2183] employer for 1958 were two and one-quarter per cent on employee's wages up to the first \$4200.00. Also paid by the company was a percentage of the employee's wages up to the first \$3,000 for the State Unemployment Compensation. This is a rated plan and varies among the different NEES companies.

In 1958 the rating was as low as .5 per cent for the Northampton and North Shore and up to a maximum of 1.3 per cent for Central Massachusetts and Lawrence Gas.

A third item in this general group of payroll taxes which are paid by the company is Federal Unemployment Compensation in the amount of .3 per cent, based on the same amount of taxable wages which the State unemployment rate is computed upon. In addition to these three items which are paid by the company, in 1958 the employees paid

two and one-quarter per cent, which were for Federal Social Security taxes, based on an amount up to the first \$4,200, this amount being withheld and transmitted by the company.

That is everything we have to offer at this time, Your Honor.

Hearing Examiner: Thank you, Mr. Vorenberg.

Mr. Nowlin: Mr. Examiner, we would like to call Mr. Hanson.

Hearing Examiner: All right.

Whereupon,

HARRY HANSON

[2184] was recalled as a witness and having been previously duly sworn, was examined and testified further as follows:

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Hanson, during the course of Mr. Quig's testimony, page 1488 of the transcript, he indicated that the pro forma eight combined of these gas companies could not get insurance coverage comparable to those enjoyed as a part of the NEES System. Is that your understanding or memory of his testimony? A. It is.

XQ. Could you tell us what specific coverages the eight combined companies, on a pro forma basis, could not get that are now available to them?

The particular sentence, Mr. Hanson, I had in mind is it says that the answer is no. As Mr. Pearson has pointed out, the coverages which the eight independent companies could obtain individually or as a group—I don't know whether that was a slip of the tongue or not when he said "or as a group". That is the reason I was asking the question. A. I would think that as a group would be treated differently than as independent companies and if these com-

panies were all a part of a group which was under common control, that these coverages would be obtainable, but I have some question as to whether the general limits of insurance could be obtained, particularly in the casualty end of the [2185] insurance. I think it certainly is more applicable if the companies were independently operated and owned. Then I could have serious question as to whether the companies would be able to obtain the high limits of coverage.

XQ. Am I correct in my understanding, then, of your testimony that looking at these companies on a combined basis there would really be no substantial differences in the coverages that they could get that they now have under the NEES System? A. I think they would be able to get the coverages, but I do have questions as to some of the high limits which are presently in effect.

XQ. One of the Ebasco witnesses—I think Mr. Pearson—testified to the effect that the Massachusetts utility companies could not obtain blanket insurance coverage unless 50 per cent or more common stock was commonly owned. Is that your understanding of the testimony? A. It is.

XQ. Is that by virtue of a provision of state law or insurance underwriters or why is this restriction imposed? A. I think that is a restriction of the insurance companies themselves.

XQ. Do you know whether or not that is only applicable in the State of Massachusetts? A. I think it has general application.

[2186] XQ. I also recall in the course of the testimony by Mr. Pearson he mentioned a retrospective plan. Do you recall that? A. I recall there was discussion about the retrospective rate.

XQ. It was my understanding that in his testimony he said the eight combined gas companies could not obtain the advantage of a retrospective plan. Is that your memory of

his testimony? A. I am a little bit fuzzy about that. Do you have the particular testimony?

XQ. No, I don't have it. May I ask this: If you don't recall, do you know whether or not the eight combined gas companies on a pro forma basis severed from the NEES System could carry on the retrospective plan which is now available to them? A. I don't think they would get the same benefits that they obtain now. They might be able to get a retrospective rating plan, but I am sure that with the smaller group of companies that the minimum and maximum premiums that would be required would be greater than at present.

XQ. As I understand it, the retrospective plan only applies to the personal injury, property damage coverage; isn't that right? A. It applied to the entire casualty lines.

[2187] XQ. Now, Mr. Hanson, do you know how long the eight combined gas companies would have to operate as a group before the retrospective coverages would be available to them? A. No. I would certainly expect that if the companies were a separate group that if the retrospective plan was going to be available, it would be available immediately.

XQ. Do you know whether or not, Mr. Hanson, the building up of an experience record is a prerequisite to the eight combined gas companies obtaining this retrospective coverage?

Mr. Dunn: I think it might help in this line of cross examination if counsel for the Commission were to point to the page of the record on which he is basing his line of questions.

By Mr. Nowlin:

XQ. In this connection, Mr. Hanson, I direct your attention to the testimony along on page 1716 and 1717 of the transcript. You notice along the bottom part of page 1716 it contains the statement that the retrospective plan is a plan where on the volume of premiums and under this plan

you would get a percentage base premium. Now that is the particular plan that I am talking about. Does that help you any on the questions I have asked? A. Yes, I understand what he has said here and I think it confirms what I indicated, that although the group [2188] of companies as such might be able to get a retrospective rating plan, the question would be as to whether or not that was advisable for this group because again, as I indicated previously, certainly the minimum premium that would be payable would be increased considerably over what it is at the present time and also the same with respect to the maximum premium, so that the question would be as to whether it would be advisable to go into a retrospective rating plan or would it be better to have a fixed premium that would be payable for these coverages to an insurance company.

XQ. Now the particular factor I was interested in further —Here is the question: I inquired as to whether or not the decision on Mr. Pearson's part not to contain the retrospective plan was an arbitrary decision on his part or did you check with the insurance company to see if they can get this kind of coverage? A. I believe that it was checked with the insurance companies and it was found that it would be possible to get the retrospective rating plan, but again the question arises would it be advisable to buy that type of insurance because of the higher minimum and maximum premiums that would be payable under that plan versus the cost of the insurance if the standard rates were paid.

XQ. Mr. Hanson, if you started out with the retrospective plan for the eight combined gas companies, would the estimated [2189] cost of \$114,600 reflected on Exhibit 92 be more or less for personal injury and property damage? A. Would you say that again, please?

(Question read by reporter.)

Mr. Dunn: You recall, Mr. Nowlin, that the witness

testified that the retrospective plan applied to a whole line of casualty insurance.

Mr. Nowlin: Yes, but I wanted to get this particular answer.

The Witness: I might say with respect to the casualty lines, that is, the three of them, Workmen's Compensation, Personal Injury, Property Damage and automobile bodily injury and property damage, those three should be considered together and it is my understanding that the figures which indicate under common control are on the basis of not having a retrospective rating plan, but rather having a fixed amount of premium for those coverages because the study that was made by Mr. Pearson and also by our own insurance manager indicated that that would be the most economical way of doing it.

By Mr. Nowlin:

XQ. Would the initial cost be higher or lower? A. These would be the initial premiums.

XQ. You mean with the retrospective plans? A. Not with the fixed amounts of premiums for the [2190] coverages because it was the opinion, after making the investigation and study, that the results of using these fixed premiums for these coverages would be less than if a retrospective rating plan was employed.

XQ. Are you talking about the first year of operation? A. Yes, I am talking about what it was based for that particular year, which I suppose you would call the first year.

XQ. Do you know, Mr. Hanson, what the premiums would be for a retrospective plan for the first year? A. No, except that as Mr. Pearson has testified and also as I learned from our insurance manager who had also looked into this, that the so-called retrospective plan would have amounted to more premiums.

XQ. In the first year of operation, Mr. Hanson, is that what you are talking about? A. I am talking about the

first year or the tenth year or any other period of time, that with the amount of exposure and the amount of payroll applicable to the combined gas operations that the amount of premiums shown would be the most reasonable kind of insurance to buy.

XQ. Mr. Hanson, would the premium reflected on Exhibit 92, for casualty insurance, be larger if you had adopted a retrospective plan as reflected on this exhibit for the first year of operation? [2191] A. My recollection is that it would have been higher.

XQ. Do I understand your testimony that for each year thereafter the retrospective plan would be higher than these costs reflected here? A. It is expected that it would be higher because, as I indicated under a retrospective plan, you do have to have a minimum premium and there is also a maximum premium so you have to pay not less than a certain amount for these coverages which takes into consideration, of course, the general exposure and you are protected by a maximum premium, as well. Now, when you are looking at that particular kind of insurance and you stack up what the premium might be with what you could buy that particular kind of insurance for by paying a fixed premium and not having a retrospective rated plan.

XQ. Would the minimum premium be greater or less than the amounts reflected on Exhibit 92? A. I should say from my recollection of what was told me that the minimum premiums would be greater than shown in the second column of Exhibit 92.

XQ. Do you know whether or not your Insurance Department made any check with the insurance company to determine the validity of this estimate? A. They did.

XQ. Did your Insurance Department talk to any other insurance people with respect to this coverage? [2192] A. Oh, yes, yes, there were checks with several insurance companies.

XQ. And it was their conclusion that no other insurance company would carry the coverage in a smaller premium than that reflected on Exhibit 92? A. That is right.

XQ. Mr. Hanson, directing your attention for the moment to Exhibit 107—that is the insurance coverages—it is my understanding that the year 1958, the total of \$139,247 includes Lynn Gas; is that correct? A. That is correct.

XQ. And also for 1959, that includes Lynn? A. It does.

XQ. And for the preceding four years, the totals do not include Lynn, do they? A. That is right.

XQ. In order to make these six years totals comparable, shouldn't Lynn be excluded from the total for 1958 and 1959? A. To make them comparable with the other four years, yes.

XQ. According to Exhibit 89-A, Lynn's insurance expense for 1958 was \$28,016.00. Does that figure seem correct to you? Do you have that before you. Mr. Hanson? A. I do.

XQ. That is the correct figure, \$28,016? [2193] A. It is.

XQ. Could you give us the same figure for 1959 for Lynn? A. No, I cannot. I would assume that the figure for 1959 would not be radically different than that \$28,000. I have found out that the premium figure for the year 1959 was \$25,302.

XQ. How is your insurance placed for the System, Mr. Hanson or who has charge of it and could you tell us just briefly the mechanics of placing the insurance? A. I would be very glad to. When our insurance is up for renewal, we contact a number of people who write that particular kind of insurance and we invite them to make propositions for us for the renewal. That usually, of course, involves their obtaining considerable information about experience and the exposure, going out in the field and seeing just what the situation is and in due time we do receive what might be termed bids for the renewal of insurance and we take

the one, the bid that gives us whatt I call the maximum protection and the minimum cost.

XQ. Now, do you know whether or not you have changed insurers in the last three or four or five years? A. Yes. That happens quite frequently wthen coverages are expiring that we get a bid from another insurer and that is the best bid and so we do switch insurers from time to time, I know with respect to our casualty insurance lines [2194] that we have been with Travelers now for, I would guess, around six or possibly eight years.. Before that for several years we were with the Aetna and before that we were with Employers Liability and we have been with the Liberty Mutual, so that we have no hesitation when we are placing the business with the insurance company from whom we receive the best bid.

XQ. How often are your insurance coverages reviewed by the management with the viewpoint of possibly obtaining other insurance? A. Whenever the insurance is up for renewal; that is, a policy might be written for one year, it might be written for three years, it might be written for five years, but whenever the policy or policies are going to be expiring within a few months' time, then we do get information together about that particular coverage and distribute it so that we can receivee competitive bids.

XQ. Do you know how often the insurers review your system experience record? A. You are talking now about insurers that are not carrying thee insurance?

XQ. Well either the insurers that are carrying the insurance or others who may be contemplating bidding for it. A. Well, of course, an insurance ecompany that is carrying the business, that reviewing expeience, the claims and what not, that is a day to day affair because there are claims [2195] that are arising in connection with insurance. I won't say every day, but certainly quite frequently. With respect to insurance companies that are not carrying the

line, the only time that they would have interest in reviewing the experience and the exposure would be when we were looking for bids.

XQ. During the course of a term, say a three year term insurance company, does the insurer review those, your personal experience at the end of each year to see whether or not adjustments should be made? A. Again that depends particularly on the kind of insurance that you are talking about. If you are talking about casualty insurance, then that is at least an annual review and, of course, in that connection our insurance department is looking at that pretty much as a continuous thing because the claims and the reserves that are set up for claims have a vital effect on what the costs of the insurance is going to be from year to year, and so we have a vital interest in knowing that our experience is carefully checked, not only by the insurance company, but by ourselves because we in effect do audit the experience figures that the insurance company is required to maintain.

XQ. Now, directing your attention for a moment to the casualty insurance, have you had any instances in the past three or four or five years where the insurer has at the end [2196] of a year given you a decrease in the premium by virtue of your experience record? A. Oh, yes, that goes on each year and is one reason why you just can't consider insurance premiums, particularly in the casualty lines, to be a static amount, because the premium is, in effect, adjusted every year based on the experience which has been sustained. For example, in this comparison of premium costs that we have been talking about, we had a poor experience in our casualty lines in 1956 and 1957. Fortunately for us the experience improved, so that we did get a return premium because of our credit in 1958 and also in 1959, whereas in those previous years either the return premium, because of the experience, is very small or we may have had

to pay an additional amount because with a retrospective rating plan, your insurance costs are based on what your experience is, whether it is good or bad. If you have a good experience, you have a lower premium; if you have a poor experience, that pushes the premium up.

[2197] XQ. Now, then in general, Mr. Hanson, if you had a good experience record in the electric operations, and you get a reduction by virtue thereof, is that reduction spread over all of the companies or only made available to the electric companies? A. There is no separation between one company and another or one part of our business from another. All of this insurance is a part of a blanket policy though. If the experience is good for the entire group of companies, the entire blanket policies, then all of the companies that participate in that insurance benefit from it.

XQ. Well, isn't it possible, Mr. Hanson, that such electric is so much greater than the gas that a good experience for the electric might offset a very bad experience for the gas? A. That is possible, and, of course, it could work in reverse, too.

XQ. In the event, the circumstances which I just gave you assuming they were to happen, would the gas nevertheless get a part of the benefit? A. They certainly would, because, as I indicated, all of the companies are insured and under one blanket policy, under one retrospective rating plan. That is, it is on a system basis, so that if the overall experience is good, all of the companies participating in the insurance get a lower amount of [2198] premium. Likewise, if the experience is poor, there is a higher cost than there otherwise would be.

XQ. Do you know, Mr. Hanson, what the experience record of the gas and the electric has been over the past five years? A. Broken down between the two groups?

XQ. As between the two categories. A. You are talking about one division and the other?

XQ. Yes, sir. A. No, I <sup>not.</sup>

XQ. Isn't it a fact that the electric part of the operations is a less hazardous operation than the gas? A. Well, you would find differences of opinion on that way. Certainly there are arguments against what you say just as well as there are arguments for it.

XQ. Isn't it a fact, Mr. Hanson, that the explosion aspect of the gas operations is considered separately? A. That is correct.

XQ. So that if you were to eliminate, having eliminated, rather, the explosion hazards from the gas business, wouldn't it seem to follow that the electric would be less hazardous than the gas?

Mr. Dunn: Do you understand the question?

The Witness: No.

Mr. Nowlin: Strike the question.

By Mr. Nowlin:

[2199] XQ. Now, directing our attention, Mr. Hanson, to Respondent's Exhibit 88, is a letter dated August 20, 1959, by you comparing the service company's allocations. You estimate that of the salary and expenses of the holding company which would have been transferred to the service company that thirty or forty percent thereof would have been chargeable back to NEES, is that right? A. That is correct.

XQ. Now, was 1960 the full year of operations under this arrangement? A. It was.

XQ. Of the NEES salaries and expenses that were actually transferred in 1960 from NEES to the service company, please indicate what portion thereof was actually charged back to NEES in 1960?

Mr. Dunn: I would like to have the question read.

(The pending question was read by the reporter.)

Mr. Dunn: Mr. Examiner, there were no salaries paid by New England Electric stem during 1960 to executive

personnel. During that year they were paid by the service company, so there could be no transfer.

Mr. Nowlin: We mean the amount that actually would have been paid by NEES except for the new arrangement.

The Witness: And I assume that in your question you include not only salary payments, but also the expenses and [2200] overhead that would go with those salary payments.

By Mr. Nowlin:

XQ. What we are talking about, Mr. Hanson, is the figure that is comparable to the \$600,000 that you mentioned in paragraph 2 of the letter. A. I assume that was it, and, of course, that does include the expenses and overhead as well as salaries, and the actual percentage of the total amount for the year 1960, which was charged back to NEES was 30.8 percent.

XQ. Well, I assume then that the balance of 69.2 percent was allocated out to the NEES subsidiaries, is that correct? A. That is correct.

XQ. The 30.8 percent, Mr. Hanson, is that an unusual or abnormal percentage in relation to other years? A. Of course, there is no comparison with other years because 1960 was the first year in which this arrangement was effected. Prior to the year 1960 the entire amount was expense to NEES.

XQ. But were there any unusual expenses incurred during the year 1960 by NEES? A. No, I don't think anything particularly unusual. I would say that this percentage of 30.8 could be considered as normal and does compare with the statement that we made previously that it would run between 30 and 40 percent. (Line left out)

[2201] of the cost attributable to the Section 11 proceedings as to which the question involved? A. Yes, it does.

XQ. Would that be of an unusual nature? A. It is hard to say what is unusual because we always seem to have un-

usual things going on. If it isn't one thing it would be another.

XQ. For example, not only was the cost of your service company people, the NEES people, appearing in this proceeding included, but were also the EBASCO study costs included in the percentage? A. No. I think you are a little off base with respect to that. This amount which I have been referring to of 30.8 percent, that applies to the people who immediately prior to the year 1960 were on the NEES payroll. So that what we were talking about in that letter that was referred to and what I am talking about are consistent, but neither include people who prior to the year 1960 were on the service company payroll, and of course, it does not include any of the charges by EBASCO. In other words, we are talking here—at least I am talking about the salary and related expenses of the people who immediately prior to 1960 were on the NEES payroll, but who effective January 1, 1960 went unto the service company payroll.

XQ. Well, didn't the NEES people do a lot of work in connection with the Section 11 proceeding? [2202] A. Yes.

XQ. And that cost was charged back to NEES A. Certainly, this percentage, which I have indicated, included an amount of several people's time, which was paid for directly by the service company in 1960, but a portion of which went against NEES during that year.

XQ. Do you know what the percentage was transferred to NEES for 1961 for the first quarter?

Mr. Dunn: Again, there is some trouble. Transferred from NEES?

By Mr. Nowlin:

XQ. Charged back to NEES. A. May I be excused for just a minute.

Hearing Examiner: Let us have a short recess.

(Whereupon, a short recess was taken.)

Hearing Examiner: Let us come to order.

The Witness: I don't have the exact percentage, but I expect it is about 33 percent.

By Mr. Nowlin:

XQ. On the basis of the actual experience, Mr. Hanson, would you still use the same percentage figures reflected on Exhibit 88 in relation to the allocation of \$425,000? A. You are talking, I suppose, about the percentage that would be chargeable to NEES.

XQ. It is the percentage you charge each subsidiary company, [2203] that is, whether you would vary those percentages on the basis of your 1960 experience? A. I will certainly try to clarify this. I would expect that the charges to NEES would be within the limits which I indicated, and I would certainly expect the allocation of amounts to vary from those set forth in the exhibit, because, of course, the year 1960, for example, that would be based on the actual distributions as well as allocation of what we call undistributed and overhead, but certainly so far as total is concerned, I don't think that there would be any great change over what is set forth in this letter of August 20, 1959.

XQ. In other words, you are in effect saying that about \$425,000 would have been distributed out to the subsidiaries as a total, is that right, in 1958? A. Yes. I think that would be reasonable for that year. I believe the actual amount for the year 1960 was \$443,000.

XQ. Now, the percentage allocation for each of the companies as shown on Exhibit 88, you have no reason to change those percentages as applied to 1958? A. No. I have no basis for making any change, but as I do want to emphasize, all of these charges to subsidiaries and subsidiary by subsidiary may very well change because of actual distributions of time. The percentage allocation is on the assumption, of course, that this total amount is going to be allocated to the companies in the percentage which I

have [2204] indicated, but that may very well vary because of actual distributions that are made by these people.

XQ. Again, looking at Exhibit 88-A, you show a percentage allocation of 5.3 percent for Lynn Gas and Electric. Did you break this percentage figure down to show separately the allocation for the gas department and for the electric department of Lynn? A. I think it must have been broken down. Could I be excused a minute and see whether that is available?

Hearing Examiner: Yes.

All right. You may proceed.

The Witness: I don't have the split of that for the year 1958, but based on the year 1960, the approximate percentage applicable to Lynn Gas Company would be 2.1 and to Lynn Electric 3.2.

XQ. Do you think it is fair to use a comparable figure for 1958? A. I think it would.

XQ. On page 2 of Exhibit 88 it lists Northern Berkshire Gas Company among the operating subsidiaries. Is this meant to be Northern Berkshire Electric Company? A. It certainly is.

Mr. Dunn: Mr. Examiner, counsel for the Commission has requested at this time that we have introduced as an exhibit a letter which was sent by Mr. Hanson to Mr. Gishman on April 18, [2205] 1961, giving certain information requested by the staff with respect to the consolidated tax savings allocated to Central Massachusetts Gas Company in 1958, and with respect to the Massachusetts franchise tax computation for the year 1958. I would like to offer this as Respondent's Exhibit No. 116.

Hearing Examiner: Let this letter with the attached schedule come in as Respondent's Exhibit 116.

(Respondent's Exhibit No. 116 was received in evidence.)

By Mr. Nowlin:

XQ. Directing your attention to Respondent's Exhibit 59, on the second page thereof, you notice the second line from the bottom entitled "reduction due to participation in NEES consolidated return," do the figures shown on this line for each of the companies represent the difference between the tax which each company would have paid on the single return basis in 1958 and the actual tax allocated to the companies on a consolidated basis? A. That is right.

Mr. Dunn: Do you understand which line he is referring to here?

The Witness: The second page, which is the total amount of \$157,700.

Mr. Nowlin: That is right.

Mr. Dunn: Relative to consolidated tax savings and their [2206] allocation.

By Mr. Nowlin:

XQ. Isn't it a fact that if the taxable income of each of the gas companies for 1958 were reduced to the pro forma level shown for each company in Exhibit 58-A, then the amounts of consolidation benefits would in each case have been smaller than the amount shown in Exhibit 59? A. I am a little bit confused.

Mr. Nowlin: Read it back.

(Question read by the reporter.)

The Witness: Where is 58-A now?

Certainly if all the assumptions that have been assumed in 58-A had been in effect during the year 1958 and 1959, there would have been no consolidated federal income tax saving in the year 1959.

By Mr. Nowlin:

XQ. Assuming seven of the eight gas companies and the operation thereof on a merged basis, do you have any reason to think that the merged companies with \$50 million of pro-

perty and \$25 million of revenues could not finance itself on a sound and economical basis?

Mr. Dunn: Are you assuming a single corporation now?

Mr. Nowlin: That is right, assuming the eight companies merged into one corporation.

The Witness: No. Certainly if the eight companies [2207] were combined, I would expect that they would be able to arrange the financing. I would expect that probably the equity financing that might be done would be more costly than is the case under the present situation.

XQ. I would like to ask you the same question: Assuming that the eight gas companies severed or were under common control of a holding company, what would your answer be? A. My answer would be the same as the preceding answer.

XQ. Now, do you know, Mr. Hanson, what investments NEES has made in the common stocks of the eight gas companies in the past five years? A. I don't recall.

XQ. Do you know whether or not NEES has supplied any funds to the eight gas companies for corporate purposes through the medium of advancing of common stock? A. There have been purchases of common stock, and there have been loans. I don't recall just what they have totaled during this past five-year period.

Mr. Nowlin: I would like to request counsel to supply for the record the investments which NEES has made in the eight gas companies during the past five years by way of equity.

Mr. Dunn: Would the reporter read the last request?

(Mr. Nowlin's request was read by the reporter.)

Mr. Dunn: We will supply that.

By Mr. Nowlin:

[2208] XQ. Directing your attention for the moment, Mr. Hanson, to page 1590 of the transcript, you will note your answer at the top of page 1590 which reads: "Yes, I am. As

set forth in that report, there could be some centralization of general accounting upon combination of the eight gas companies upon severance from the NEES System, but in other accounting areas I do not believe that the centralization would result in any material savings under existing conditions."

Now, what do you mean by other accounting areas?  
A. I think I had particular reference to payroll accounting, stores accounting, plant accounting, customer accounting.

XQ. What do you mean by "under existing conditions"?  
A. The question that you always get into when considering centralization of various accounting functions is whether the mere fact of doing all of this work in one location and any economies you might obtain from it more than offsets the additional expense that you have to go to in getting the basic information from the various sources, that is, the various companies and divisions, to this central point. Now, under existing conditions, as I see it, the size of this group of companies, it would certainly not be feasible or practical from an economy standpoint, having in mind the results, to use any of the present high speed equipment, which, of course, is quite expensive whether you rent it or whether you own it.

Now, if at some time in the future there may be [2209] developments with respect to the automatic or the telephone messages where meters could be read or where information could be transmitted from numerous points to a central point, then in that event it may very well be that there would be economies that could be obtained, but until there is a change in the general art of doing these things, which would result in economy, I don't see that any purpose would be obtained by doing it at the present time.

XQ. Directing your attention again for the moment to the insurance cost upon severance of the gas companies,

Respondent's Exhibit 92, I think you in the course of your previous testimony adverted to the fact that adjustments are made from year to year or may be made from year to year by virtue of the experience record of the companies; is that correct? A. That is correct.

XQ. Now, you don't mean to imply, do you, that the estimated premiums that are set forth on Exhibit 92 would be rigid and that they would not be subject to subsequent adjustment in the event of a better experience record? A. I think I indicated that it was my recollection that in the preparation of Exhibit 92—again, I am referring for the moment to casualty insurance lines, to which this particularly applies, that for these coverages it had been the opinion of both Mr. Pearson, the insurance expert of Ebasco, as well as our insurance manager, that for the group of gas companies that they [2210] would be better off from a premium standpoint, having in mind the hazards and the potentialities of the situation, to buy insurance which would be what I term a fixed policy and premium type. That is, not purchase the so-called retrospective rating plan because it would be necessary to have a higher minimum premium applicable to this group of gas companies than the relative minimum applying to all of the companies presently in the NEES System. So that although you might get a lower minimum premium under a retrospective plan than the fixed premium under a more rigid type of insurance, the hazards of a bad experience might very well push that premium cost up substantially more than the minimum premium or the fixed premium under a rigid policy, so the gamble just is not worth it if you are just looking at a relatively small group of companies like the eight gas companies in the NEES System.

XQ. Do you think, Mr. Hanson, that apart from the retrospective plan, that the premiums reflected on Exhibit 92 would remain rigid for all times? A. They certainly would

be for the first policy period. Now, it may very well be that at the end of the policy period, dependent upon what the experience of the companies might be, that they could purchase this insurance for a renewal period at a less premium or if the experience had not been good insurance companies might say, no, we won't insure it for that premium; it has got to be more for the next policy period. Again, the [2211] insurers are always looking at what the experience and the exposure is when they are writing a blanket insurance policy.

XQ. Wouldn't these premiums on Exhibit 92, particularly the cash and the insurance, be subject to annual reviews and increases or decreases depending upon the experience record? A. No. As I tried to get across, I am quite sure that the figures set forth in here are the fixed premiums and do not give effect to having a retrospective rating plan for the group of eight gas companies.

XQ. Well, now, I think that is my understanding of it, too, but it is also my understanding that you would have that these premiums would be subject to a decrease or increase on an annual review, depending upon the experience record, is that correct, even if you don't have a retrospective plan? A. It may very well be. It might be that this insurance was written for a one-year period. Now, presumably certainly if we were doing this sort of a thing before the end of that year we would be contacting several insurance companies and saying, "Well, what will you write this insurance for next year?" Now, they would say, "Well, what has the experience of these companies been in the past?" And they would make a field examination to find out what the exposure was and then they would make bids. Now, the best bid might be either more or less than this figure, which is indicated in this Exhibit 92, and I do want to emphasize that—I don't know as I made it too clear before—that even [2212] though the minimum premium under

a retrospective rating plan might be somewhat less—and I think that is the case here—than a fixed premium without any provision for adjustment during the policy year, you do have to consider the possibilities as to what kind of risk you have and what sort of an experience there might be in determining which is the best kind of insurance to buy. For example, if you had a, let's say, a relatively small company, and it did have substantial exposure, it would be foolish to consider purchasing a retrospective rating plan even if you could obtain it, because you might get one loss during the policy year which would require a substantial amount to settle, and then you would be stuck with that bad experience for several years after that because, of course, the insurance company under the retrospective rating plan, they are going to in effect collect as premiums from the assured an amount equal to the losses, plus something for their services in administering the insurance and in settling claims and that sort of thing.

Mr. Nowlin: Mr. Examiner, I think this is all we have at the present time of Mr. Hanson.

Hearing Examiner: All right.

(Witness excused)

Hearing Examiner: Are you calling Mr. Krause?

Mr. Nowlin: Yes, sir.

Whereupon,

[2213]

ROBERT F. KRAUSE

resumed the stand and testified further as follows:

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Krause, where are the construction budgets originated for the gas companies in the NEES System and for the electric companies in the System? A. In the gas companies they are originated in the Central Division of the

gas companies after conference between management people and the gas engineers. In the electric companies they normally originate in the District Engineering Offices in the various locations in the electric properties. They are then made up and come to Boston, where they are reviewed, and I guess I finally put my initials on the budget at the end.

XQ. I was going to ask you through what channels are the budgets cleared up to and including final approval? A. Just before they come into Boston, Mr. Dalbeck would put his approval on them, and then they would come into my office.

XQ. That is on the gas? A. That is on the gas.

On the electric side they would contain the District Engineer's initials, and they would come in and be looked over by the Engineering Department in the Boston office, and then they [2214] would go to the Vice-President in Charge of Electric Operations, which is now Mr. Jones. He would put his initials on them, and finally they would get into my office.

XQ. What official has the final responsibility for determining what construction will be undertaken for the electric and the gas business? A. Oh, I would say that final would be Mr. Webster as Chief Executive Officer of the company. He normally doesn't get into every budget unless there is some question raised that requires a general discussion.

XQ. What official would decide what particular construction project should be postponed or disapproved? A. That could happen anywhere along the line. You could find that in the electric side, for example, that the Chief District Engineer or the Chief Engineer didn't agree with what had happened down the line. They might question an item that it could be postponed or it couldn't. The Distribution Superintendent in a particular area would have something to say about it and the local management, depending on what the item was. So that a lot of these items are sifted out as

they come along. Then they are finally reviewed in Boston, and, of course, one of the things that has to be considered is the availability of money.

XQ. Would Mr. Dalbeck have the authority to initiate any construction for the gas companies? [2215] A. Himself you mean?

XQ. Yes. A. Well, he could certainly, but I would think in the normal course they would be initiated somewhere in his organization before they got to him.

XQ. Wouldn't the system have some upper limits upon the amount of construction which he could initiate on his own? A. No. I don't believe it works that way, Mr. Nowlin. He suggests what is necessary. I can't recall recently where we have said that certain construction in the gas couldn't go on because there wasn't funds. It is pretty much his own judgment as to what he needs. He has certain tests that he makes for enlargement of the gas system, but he wouldn't suggest construction where he could see that he wasn't going to get a fair return on the extension.

XQ. Does he have the authority to undertake construction on his own behalf without the clearance with the NEES officials? A. No. No one in the system can go ahead and do any construction unless that construction was listed in a budget which gets final approval.

XQ. So that really the final say-so on the construction budget for the gas and electric lies in the hands of the NEES executives, isn't that right? A. That is right.

XQ. How frequently, Mr. Krause, do the NEES officials [2216] revise a budget either upward or downward when it reaches the Boston office? A. Repeat that question, please.

(The pending question was read by the reporter.)

The Witness: Well, the budgets are revised quarterly, Mr. Nowlin, but that doesn't necessarily mean every quar-

ter there will be an upwards or downwards revision, but they are reviewed quarterly and they are projected for a year each quarter.

By Mr. Nowlin:

XQ. And that review is done on the parent level by NEES officials? A. That is correct.

XQ. Directing your attention for the moment—how frequently do the NEES officials have differences of opinion as to the undertaking of the amounts of construction recommended from the lower echelon? A. I would say it was rather infrequent. By the time it gets through the engineering department and the operating heads, usually many things are ironed out, so that I would say it is infrequent that the NEES officials had to knock an item out. You might, for example, find that on a service building, where it is something that the local people would very much like to have, but you can't say it is a necessity, something like that might get knocked out at the NEES level more than on an extension [2217] of a line or something that is purely an engineering or technical basis.

XQ. Where there is a limited amount of capital available for construction for both the gas and electric companies, who determines the allocation of capital that should be expended for a particular purpose?

Mr. Dunn: May I inquire of counsel as to the source of the capital that he is inquiring about?

Mr. Nowlin: I assume it is either in hand or whether it is in prospect by financial arrangements.

Mr. Dunn: Are you inquiring about capital available to the holding companies or available to the operating companies through going into the financial markets? I am not quite sure what your question is.

By Mr. Nowlin:

XQ. Are you clear on the question? A. Not now.

XQ. Suppose you strike that whole thing and I will

start over. Let's assume, Mr. Krause, that the Gas Division comes up with an estimated construction budget of \$20 million for a given year, and that the electric comes up with an estimated budget of \$50 million. Now, who would determine what funds should be allocated to the particular operations? A. Your figures are a little high, but on those assumptions I can never remember the question coming up in that context, Mr. [2218] Nowlin. Normally the system is able to finance what construction is necessary, and I think the inquiry would be if it is necessary the money has to be raised. I don't think Mr. Dalbeck or the electric department at any time have ever been restricted from doing some construction that was necessary because funds weren't available.

Now, sometimes a thing may get postponed if it is a type of item that can be postponed because the year as a whole for construction money looks rather high, but again, it isn't a question of whether the gas or the electric gets cut back. It is based on a question of necessity.

XQ. Now, who would determine whether or not the gas construction or the electric construction should be postponed? A. Well, in that event you would have a discussion with both sides to see whether Mr. Dalbeck could recommend something, for example, in the gas picture that could be postponed a year, and he might well do it, and the same would be true on the electric side.

XQ. Well, now, have you had any instances in the system where, for example, you needed to construct a new generating station for the electric and the gas department also required funds for their construction, and in such instances did you postpone the gas construction for the benefit of the generating station? A. Never.

[2219] XQ. Do you know whether or not you have had any instances, say, in the past five years where the construction budget submitted by Mr. Dalbeck and his asso-

ciates has been postponed or rejected? A. I think there must have been items that were postponed in the gas budgets as well as the electric budget. I just can't put my finger on one of them now. It would be very apt to be a collection of minor things.

XQ. Do you know what factors underlay the decision to postpone construction for the gas? A. Well, there again the thing that controls the whole construction budget is the foreseeable ability to finance that much construction in a given year. Now, that is elastic, but it gets to a point sometime where you might say that the construction budget looks high for this coming year, and you would comb over the projects to see whether any of them can be postponed or aren't completely necessary, and that would go forward on both the gas and the electric side, and whether one or the other might postpone relatively more than the other I think would be dependent on the individual situation rather than on whether it was gas or electric.

XQ. Do you know, Mr. Krause, which of your operations—that is the electric or the gas—is generally the most profitable? A. That varies from year to year. I think we try to maintain a fair return in both the electric and gas operations. [2220] That isn't always true at any given location at any certain point of time. I suppose it is arguable that the allowable rate of return on a gas operation should be a little higher than the electric. Whether that is always attainable is questionable.

XQ. Well, isn't that the position which the management ordinarily takes with the Massachusetts Department of Public Utilities? A. Yes. I would say if we had a rate case we would ask for a higher rate of return in a gas company than we would in an electric company of the same size.

XQ. Do you know what rate of return you have earned on the electric operations for the years, say, 1958 and 1959?

Mr. Dunn: This is for all electric in the system?

Mr. Nowlin: The overall.

Mr. Dunn: In all of the states?

Mr. Nowlin: Yes.

The Witness: I would have to refresh my recollection but as a guess I would say it is between five and a half and six percent.

By Mr. Nowlin:

XQ. Do you know what overall rate of return you have earned on your electric operations in the State of Massachusetts for the year of 1958 and 1959? A. My recollection is it was a little over six percent.

XQ. Do you know how that rate of return compares with the rate of return earned by other non-affiliated electric companies [2221] in Massachusetts? A. Well, I was giving you an overall system rate of return which included operations in Rhode Island and in Massachusetts and New Hampshire. I would say that in those years our rate of return in our Massachusetts companies were higher than the average.

XQ. Well, that is what I was attempting to ascertain awhile ago. You gave me the overall rate of return in all states. Tell me what it is in the State of Massachusetts alone for the electric companies. A. I would say in Massachusetts it was right around six percent in those years.

XQ. Now, does the Massachusetts Commission fix rates on the basis of original cost for electric properties? A. They have a system which they don't call original cost, but in the essence it is the same.

XQ. Have you had any rate cases by electric companies before the Massachusetts Commission in the past four or five years? A. Yes. The last one was Worcester County Electric as it was constituted then, which was prior to the present merger.

XQ. And when was that decision? A. What year?

XQ. Yes. [2222] A. I think it was 1958 or 1959.

XQ. Was an actual rate base fixed by the Massachusetts Commission for that particular company? A. Yes.

XQ. And what rate of return did they allow you in the Worcester rate case? A. Something under six percent, but I think it was what we asked for, Mr. Nowlin. It wasn't a judgment that that should have been the rate of return. They allowed us the rates that we had suggested.

XQ. This was what we call a full blown rate proceeding with the State Commission? A. Very full blown, yes.

XQ. Does the State Commission up there fix rates for the electric companies operating in Massachusetts on an individual company basis, or do they fix rates on the combined electric operations in the State of Massachusetts? A. By individual companies.

XQ. Now, is the Worcester Electric Company the only rate proceeding that you have had in the past four or five years in the State of Massachusetts? A. No, we had other rate proceedings. If you go back five years, I am not sure. We had a rate proceedings for Northern Berkshire Electric Company, Quincy Electric Company, Weymouth Light and Power Company. I think that is the list.

[2223] XQ. Now, turning to your gas companies, have any of the eight NEES gas companies had any full blown rate proceedings with the Massachusetts Department of Public Utilities in the past five years? A. I think the answer is no to that except that Lynn Gas and Electric may have had a rate case immediately preceding their being taken into the system.

XQ. Now, I assume the Massachusetts Department of Public Utilities uses the same formula fixing rates for the gas companies as it does for electric companies, isn't that correct? A. The same type of regulation, yes.

XQ. And I would also assume that the Massachusetts Department of Public Utilities fixes rates for each of the

eight gas companies on an individual basis rather than on a combined basis? A. That is correct.

XQ. According to Exhibit 114 put into evidence this morning, the Lynn Gas Company earned a rate of return of 5.1 percent in 1959 as compared with 7.5 percent in 1958. Could you tell us what this decrease is attributable to? A. I think one of the things that has contributed to this, that has contributed to, I think, lower returns for a lot of the companies is the fact of having to make their own gas for peak shaving, and I think the Lynn situation is a particularly expensive operation.

[2224] Another thing is I am not certain that their sales effort has been as successful as it has been in other areas. I think you will notice that they haven't got as much of the house heating load as some of the other companies have. I am not certain either whether they didn't lose a certain amount of large customers during this period.

XQ. Due to what, do you know? A. I think it was due to a change in the General Electric operation in that area.

XQ. Do you consider a 5.1 percent rate of return a fair return for Lynn Gas? A. No, I do not.

XQ. Now, looking at Central Massachusetts I notice in 1958 your return of 7.8 percent as compared with 5.3 percent for 1959. Could you tell us what that decrease is attributable to? A. I think this is the situation that involved the Federal income tax situation. I think this was the first year that Central Massachusetts really paid a Federal income tax.

XQ. Perhaps this line of questioning, Mr. Krause—tell me if I am right—should be addressed to Mr. Dalbeck rather than to you, is that correct? A. I think he could do a better job at it, but I will be glad to try it.

XQ. Let me direct your attention to one other here, and that is Norwood Gas earned 7.1 percent return in 1958 and 8.1 [2225] percent return in 1959. Don't you consider that

that would normally be an excessive fair rate of return? A. Well, I wouldn't want to shout about it or brag about it. I think it would be a little high, yes.

XQ. In your judgment what should the gas companies, each of the gas companies earn in order to earn a fair rate of return? A. Of course, you have to look at the size of the company and look at its financing. The smaller the company, the higher the rate of return I think should be. The Massachusetts Commission, like other commissions, tests the rate of return by the cost of capital. Usually a larger company is able to obtain a lower interest rate on the debt portion of its capital, and also in Massachusetts if a company is part of a holding company system, they will assume a capitalization for the company in testing what the fair rate of return should be, but I would think any gas company in Massachusetts should be able to earn at least six and a half percent without having the rate of return questioned as excessive.

XQ. Now, do you know what the rate of return of the NEES System earnings on the electric operations of Lynn was during the year 1958 and 1959? A. No, I don't off-hand, Mr. Nowlin.

XQ. Would you expect it to be better than 5.1 percent? A. Yes. I think it was around 5 point—well, I better not guess. But I think it was in excess of 5.1.

[2226] XQ. Now, on page 874 of the transcript, Mr. Dalbeck stated in part: "It has been our experience over the last few years that it requires about a ten percent annual increase in MCF sales of gas just to offset the annual increase in wage rates, municipal taxes, and increased cost of materials and services."

Now, could you tell us what the comparable figure on an analogous situation would be for the electric companies? A. No, I can't, and I would like to know what it is, Mr. Nowlin. There is some percentage somewhere that you

have to maintain to offset these things. I don't know exactly what that percentage is.

XQ. During 1958 and 1959 and 1960, do you know what percentage of those gross electric revenues of the NEES system have been carried down to gross income after taxes; that is, on the average? A. I haven't those figures in mind.

XQ. You probably wouldn't know what it was for the gas companies, is that right? A. No. Probably Mr. Dalbeck would know on the gas companies, and I think probably Mr. Hanson could give you that figure on the electric companies.

Mr. Nowlin: Off the record just a minute.

(Discussion off the record)

Mr. Nowlin: Could I inquire of counsel if he could supply us the answer to the question which I just asked Mr. [2227] Krause and refer to counsel in 1958 and 1960.

Mr. Dunn: Yes. I would like to have it read back by the reporter again to make sure it is clear.

(Question read: "During 1958 and 1959 and 1960, do you know what percentage of those gross electric revenues of the NEES system have been carried down to gross income after taxes, that is, on the average?")

[2228] Mr. Dunn: Mr. Examiner, I think there are some factors that have to be taken into consideration, before giving this information. I suggest that counsel for the staff discuss this matter with me during the recess and we will agree upon the information to be supplied.

Hearing Examiner: Very well.

By Mr. Nowlin:

XQ. Mr. Krause, assuming that a substantial housing development is going to be built in the service area of the electric and gas subsidiaries of NEES, who determines what extension and what service—that is, gas or electric—will be made to supply the requirements of this development? A. There is no gas or no electric service in the area?

XQ. That is right. A. The initial problem would be whether the Gas Department would think that they could get their mains to this location and make any money on the business, if they got it. If you assume that—and I assume that the electric would extend because you have to have lights—so you are going to have your electric there. It then becomes purely a question of the desires of the developer and the abilities of either the electric salesmen or the gas salesmen to sell the business.

I think in the last analysis, it is much like what kind [2229] of a car you are going to buy. Some builders are gas minded; some builders are electric minded, and there is certainly no decision made anywhere in the system whether that particular project is going to be electric or gas.

XQ. In other words, none of the NEES officials have to issue instructions, either to the gas or electric departments, with respect to contacting the builders, to determine the advisability of putting either gas or electric in the area? A. That is correct. In all these areas, we have men whose living is dependent on being able to sell gas or electric to the new project. There are no holds put on these men at all. They go out and sell. And what determines it is either their salesmanship or the merit, or what the buyer thinks the merit of the product is.

XQ. Since the electricity has to be in—let's assume a new subdivision—in any event, to furnish lights, from the viewpoint of the investing capital, would it not be more economical for the electricity to develop the area rather than the gas? A. I don't know because if you get a substantial gas load, the decision is, can you put the pipeline in there—the electricity, you know you are going to get a certain amount of electric business, in any event.

I think that if you were fortunate enough to get electric heat, or all-electric homes, in addition [2230] to the lighting and other electric uses, certainly your capital would be

more profitably invested in that area, but that is not the way we run the system.

XQ. Well, if it were more profitable to take the electric into the area rather than the gas, would not Management favor the electric? A. No. I assume that if the gas goes in, that the profit will be made out of the gas business.

XQ. Isn't it a fact that your electric operations to Massachusetts, are more profitable on the overall than the gas? A. I don't think I answered that question that way.

XQ. I am asking you now, if that is not the fact? A. I don't know which is the more profitable. As I say, it varies from place to place and from year to year, Mr. Nowlin.

XQ. Doesn't it make more economic sense, Mr. Krause, that you try to get the electric area—I mean, the area developed with electricity, since you already have your investment in that area, than it would be to expend the funds to take the gas in the area? A. You may be able to make those assumptions in some places but that is not the way the decision is made.

XQ. Well, if it were more economical to put electric service into the area than it would be the gas, would not [2231] the Management be remiss, at least to the stockholders, if it did not favor the electric as opposed to the gas? A. No. I don't think so.

Mr. Dunn: Mr. Nowlin, I would like to ask counsel for Commission to state, is it more economical to whom? To the companies? To the consumers? What are you talking about?

Mr. Nowlin: From the point of view of investments in the area. That would be primarily from the point of view of the investor.

Mr. Dunn: You are talking about the profits on their investment?

If I understand your question correctly, you are talking about whether or not it is not more profitable to the com-

panies to put in more electric versus gas, and there I have difficulty, because both are regulated utilities, limited in the return that they can enjoy, and therefore, I fail to see the import of your question.

Mr. Nowlin: Well, it is one factor if you have a regulated utility, and the State Commission states how much you are permitted to earn, but it cannot earn if it cannot serve, irrespective of that.

Hearing Examiner: Well, the witness answered that. He said, "I don't think so."

Mr. Nowlin: Let's take a concrete example.

[2232] Let's go to Lynn Gas. You are earning 5.1 percent. You are earning 6 percent from the electric. Then you estimated you are doing better on the electric.

Now, you had a big subdivision are being developed there. Would it not be to the advantage of the NEES system to expand its electric operations into that area, rather than its gas?

The Witness: We have adopted, as a policy that is in the best interest of the stockholders of NEES that we have unrestricted competition to try to get this kind of new business. We think, as a result of really sticking to that policy, in the long run, both the gas and the electric are better off. So that it makes aggressive salesmen out of both of them. They both profit, I think.

By Mr. Nowlin:

XQ. Is this policy adopted even though it may mean a duplicate investment to put the electricity and the gas into the area? A. Yes. I think that is illustrated, Mr. Nowlin, by the fact we have had gas and electricity in quite a few areas.

XQ. Well, isn't it a fact, Mr. Krause, that if the Management is going to foster or promote the gas along with the electric, to the advantage of, the profit of the stockholders, that you are in effect, subsidizing the gas at the expense

[2233] of the electricity. A. You can make the assumption that it is more profitable to do it the other way. I am not sure. I think it is more profitable.

XQ. I said, if it were. A. I cannot accept that assumption.

XQ. I give you the example. I don't want to argue with you. I give you the example. At Lynn, gas and electric, you were earning 5.1 percent on your gas. I think you estimated six percent on the electric.

It is obvious in that area it is more profitable is it not, to push the electric operation. Isn't that a fact? A. No. I don't follow that at all.

XQ. That fact that you are earning 5.1 on gas and 6 on electric, you don't think that the electric is more profitable? A. I think it is more profitable in that particular point of time but I don't see how it follows that it would continue to be more profitable to push the electric there.

XQ. Well, why would it not be? Those are actual operating results. Why would it not be more profitable to push the electric? A. Because I think, in the long run, that the whole operation is more profitable if the gas and the electric [2234] compete for new business on an unrestricted basis.

XQ. Even though you don't get the return on the investment from the gas, that you do on the electric? A. I assume we are going to get a fair return on the investment for that new area. I am sure that you would not try to develop it with gas mains, if you could not foresee in the foreseeable future enough business to make a return on your investment.

XQ. Well now, let's assume one other factor, which we don't have in the record but for the past five years, let's assume that your electric operations in Massachusetts produced a rate of return of six percent and that your gas properties produced a rate of return of five percent.

Would it not be obviously more profitable to the NEES

stockholders to foster the electric operations, rather than the gas?

Mr. Dunn: I object to that question, Mr. Examiner. He is asking the witness to make an assumption that is not necessarily so.

The Witness: I thought I answered that, Mr. Nowlin.

Mr. Nowlin: No, you did not answer this one.

Hearing Examiner: I thought the witness said he could not accept those assumptions. Did I catch that correctly, Mr. Krause?

[2235] The Witness: That is correct.

Hearing Officer: Off the record.

(Discussion was had off the record.)

Hearing Officer: On the record.

We will recess at this point, until 1:30.

(Whereupon, at 12:30 o'clock, p.m., the hearing was recessed until 1:30 o'clock, p.m., on the same day.)

#### AFTERNOON SESSION

[2236] Hearing Examiner: Let us come to order.

Mr. Nowlin: Mr. Examiner, I would like to ask counsel for respondent to try to state the rate of returns on the five electric companies in the NEES system, that conduct joint operations with the gas for the year 1958 and 1959.

Mr. Dunn: We will supply that.

Whereupon,

**ROBERT KIAUSE**

resumed the stand and was further examined and testified as follows:

#### *Cross Examination*

By Mr. Nowlin (Cont'd.):

XQ. Mr. Krause, as I recall it, NEES management attempted to dispose of its interest in the gas companies in

1952, did they not? A. I think that was the year. Yes, sir.

XQ. Do you know why the Management decided to dispose of its interest in the gas companies at that time? A. Well, I was not in a top position of Management at that time but I will answer that to the best of my knowledge, Mr. Nowlin.

XQ. If you don't know, I don't want to press you for an answer. A. I think I answered it. I think that there was an [2237] outstanding question as to whether the gas properties could be retained under Section 11(b)(1) of the Public Utility Holding Company Act. At the time, the earnings of the gas companies were small, relative to the amount of investment. Natural gas was on its way. There was considerable interest among investors generally in the country in purchasing shares of natural gas companies, in areas that were just getting natural gas, and it was an opportunity to perhaps realize the full value of the properties without, at the same time, sacrificing immediately, any large amount of earnings, and it seemed to be an opportune time in view of the overall question of retainability, to see what kind of a price could be obtained.

XQ. Do you know whether, at that time, in 1952 and the prior years, the gas companies were earning profit or were they operating at a loss? A. I don't know. There may have been some individual ones operating at a loss, but let me say the rate of return was very poor, as a group.

XQ. Do you know what the first year was that you felt that the gas companies began to earn a fair rate of return? A. I would have to refresh my recollection on that. It was about the second full year, after the advent of natural gas, and its conversion.

XQ. That would be 1955 or 1956? A. I think that is approximately correct.

[2238] XQ. Now, taking you back to the development of this assumed subdivision, I believe you stated that you

would have to go in with electric to light the houses, would you not? A. Perhaps I did not explain that fully, Mr. Nowlin.

If you were going to supply electric heat to a subdivision in all the houses, your investment would have to be greater. You would put in heavier lines; there would have to be more transformers; and it would be a different design. It would be more expensive.

XQ. Well now, I think it was testified earlier in the proceedings, that the NEES system had put in a development or a promotional rate for electric housing. Is that right? A. I am not sure you would call it a promotional rate. In early 1960, after considerable study, the NEES companies all adopted a house heating rate. Prior to that time, we did not have what you would call a house heating rate as such, but for the preceding ten years at least, with the exception of the Lynn Company, the Massachusetts companies had rates under which a person could get house heating at a cost which in some instances, was less and in some instances was more than the present house heating rate. Perhaps I should explain that further, the NEES companies generally had an off-peak water heating rate which was available to a customer, if he had an electric range, and a water—electric water heater. If a person asked for this rate, [2239] he was given a two-dial meter, and at 11:00 o'clock at night, all his use automatically switched over to another dial and stayed on that dial until 7:00 a.m., in the morning. So this gave him eight hours of the twenty-four hours where he got all of his use on an off-peak rate.

This rate varies from 10 mills to 12 1/2 mills, depending on whether a particular company had had a recent rate increase. Those companies that had rate increases, the standard price was 12 1/2 mills. So if you would put in electric heat, by taking advantage of that off-peak period,

and due to the fact that about 40 to 42 percent of the fuel needed to heat a home is used in that eight-hour period, you would have arrived at a rate for your heating which would be fairly close to the present heating rate.

If you were in an area that still had a one cent off-peak rate, your average cost for heating your house, for electricity, would be a little less than the present heating rate. If you are in an area that had 12 1/2 mill off-peak rate, the present heating rate would be a little less.

XQ. Now, in general, is the heating of new homes by electricity on a competitive basis with the heating of new homes, by the same homes, rather, by gas heating? A. I don't think it can be answered yes or no. I will be glad to enumerate the factors. In an electrically heated home, there is a considerable saving in the initial [2240] installation. I think it is estimated that to put gas or oil heat in the home, the average size home, would cost anywhere from 11 to 12 hundred dollars. The cost of putting in the electrical equipment to heat a home is probably half that amount of money.

However, in order to meet the specifications recommended for an electrically heated home, added insulation is necessary.

In other words, considerably more insulation than you would put in a gas or an oil heated home.

So this extra insulation cost in a new home, usually eats up most of the difference between the two installation rates. Then, in an electrically heated home, we must admit that your cost of operation, the fuel part of your cost of operation, is higher than either gas or oil.

On the other hand, you get individual thermostats in each room so that you can get the temperature you want in any room in the house. It is clean. There is no flame. It is odorless. People like this sort of thing. They are willing to pay a little more money for it. So that when I say it

does compete, I think you have to answer that question in the mind of the buyer. Buyers do believe that it competes. They are willing to pay a little more for the fuel charge in their monthly bill.

XQ. Well, is the competitive situation more nearly [2241] approximate, when you get into the higher price homes than in the lower cost homes? A. No. I don't think it has anything to do with size.

The ratio would remain about the same, no matter what the size of the home. We have a considerable number of very small homes that are being built that have electric heat.

XQ. What has your experience been since you put in the special rate or promotional rate for electric housing in the NEES area? A. Along about 1958, it became evident that there was a market for electric heating in New England. I think this was largely due to advertising that had been done in other parts of the country; national advertising on all electric homes, and the change in the consumer's buying methods, generally. People were willing to pay for quality, and it was offered to them, and it was about the latter part of 1958 that we first began to train any considerable number of people to do electric heat selling and this included special schools for architects, electrical contractors, builders, to acquaint them with it. And as I say, this old off-peak rate was available to the people during that period, if they wanted to use it. It was in about 1960, that, after considerable study, that we finally put in our so-called house heating rate.

[2242] XQ. Now, how does Management determine whether gas or electric service will be rendered to any given area? A. First of all, you are limited by your franchise areas, so that is the limiting factor. If you have an electric franchise in an area, I don't think Management has any choice. You have to serve it. In a gas area, it depends on whether you

can afford the cost of running the lines into an area and get a return on your investment in a reasonable period of years. This depends on the density of the population; how far you are from where you have to pick up your gas supply and other factors.

XQ. Are there not areas in the NEES system, where you have electric and gas companies operating in the same territory? A. You say, are there such areas?

XQ. Yes. A. Oh, yes.

XQ. Well now, in one of those given areas, how does Management determine whether the gas or electric service will be rendered to a new area? A. If Mr. Dalbeck and his Gas Division feels they can extend their lines in a given area, and it meets what they believe is a reasonable chance of showing a return on going into that area, they are never stopped from doing so. They make the same decision that a Management would make if they were running an independent gas company.

[2243] XQ. Well now, let's go back again to this assumed area that you have—this new subdivision development—and I say you have to take the lines in there for the electric light, in those homes. Forgetting for the moment the gas—I mean, the house heating aspect of it—is not the electric stoves and the electric water heaters and other electric appliances on a competitive basis, both as to cost and service cost, with gas? A. Yes.

XQ. Well now, how do you determine—again forgetting the house heating end of it—how do you determine which one of the services will be pressed or pushed in a particular area? A. There is never a decision made as to which service is going to be pressed to push in an area. The salesmen in that area sell. If they can sell one, they sell that; if they cannot, they sell the other. We are just not selling gas against electric, or electric against gas. Oil is also another competitor. One of the reasons we feel that it

is to the best interest of our stockholders in the system, lies in our uncontrolled competition between the two; that we are competing, not only with each other, but with oil as well.

XQ. Well, since you have to make capital expenditures [2244] to take electric into a given area, would it not be more economical to render electric service in the area, rather than to make capital expenditures, to take the gas in? A. I don't believe so.

XQ. Do you know whether or not you made any study along that line, to determine which would be the most economical? A. I don't think a general study would help, Mr. Nowlin, because whether a given area is profitable or not, depends so much on the individual circumstances, and it might be profitable one day, and not the next. Usually, it takes time for the area to develop, to reach its potential, but in the example that you gave before, of the electric operation earning six percent, and the gas operation earning five percent, just because you made an electric extension into an area would not mean you were going to make six percent on that extension. You might make much more, or you might make much less, because the rate of return, as you well know, is an average of thousands of situations, some of which are more profitable than others.

The same is true of the gas. You might very well run the gas into this same area, and make 10 percent in that area, where the company was making five percent return.

XQ. Well, doesn't the Management make a study of those [2245] potentialities to determine, before they go in there, which would be the most economical development? A. No. If the gas can be shown to be able to make a reasonable return in that area, and it is the judgment of the Gas Division that they can and should operate in that area, they go ahead and extend their mains into that area.

XQ. Without having made any predetermined study as to whether it would be economically feasible or not? A. I just said, they make the study to see whether the gas cost of extending the gas into the area is economically feasible. The study that is not made is whether the gas or the electric should get preference. That is never made. No.

XQ. Well, once you have made your study for the economical development of an area, either with electric or gas, assuming it was more economical to develop with electricity, would you still permit the gas to go in and make the expenditures for the area? A. If they could show that they could make an economical development of the area, they are certainly entitled to go in there and attempt to sell the business. Yes, sir.

XQ. I will try it again. Let's assume you make a study. It is determined, pre-determined, that from the system viewpoint, it would be more economical and beneficial to [2246] develop this for an electric area, rather than make the expenditure for gas. Assuming that, would you still direct the gas to go into the area?

Mr. Dunn: This again, is an assumption, which the witness said he does not accept.

Mr. Nowlin: Well, Mr. Examiner, I might state this. I imagine it is almost a daily occurrence up there—a monthly occurrence—where you have a new subdivision going in. I would assume, from Mr. Krause's testimony, that they make studies to determine the economic feasibility of carrying one or the other services in that area.

The Witness: That is not what I said, Mr. Nowlin. I said the gas, if they have to extend their mains in on a new area, they make a study whether it is feasible to extend the mains that far; whether there is potentially enough business in that area at that time, to warrant the extension of the mains. If they do, they extend their mains into that area, then it becomes a matter of selling by the salesmen in

that area, as to whether they can sell the new homes electric equipment or gas equipment.

There is no study made as to whether you can afford to extend your electric installation into that area, because, in the electric business, lighting is a necessity, and if it is in your franchised territory, you very well extend it.

Now, on occasions, we have an extension policy [2247] that might require some investment by the builder, if he is so far away from the main lines or something like that, but generally, there is no study made as to whether you have to—whether you can serve an electric area. You just do.

XQ. Well now, forgetting again about electric house heating, when you take electricity into the area for lighting, what additional expenditure would you have to make for the electrification of that area, in order to serve electric stoves, electric water heating, and the other appliances? A. That would materially increase the demand on the feeders. You would probably have to have more feeders. Certainly there would have to be more transformer capacity in the area.

XQ. Don't you ordinarily, when you are going into a new area, provide for future developments in making those additions? A. You might not put them all in at the same time, but certainly, you would attempt to build it in such a way that it could be strengthened if needed.

XQ. So that the initial expenditures which you make into a new area, are of such volume, to serve that area whatever developments occur. Is that correct? A. Not exactly, no. If you know that you are going to have all electric house heating or all electric stoves and [2248] water heaters, you would have to build it a little differently. More expensive.

XQ. Excluding the electric house heating, would you not have substantially the same dollar investment going

into a new area? A. It would be close, but it would not be the same.

XQ. Well now, having made that initial capital expenditure for electricity in there, and having equipped yourself with ability to serve electric stoves, water heaters, and so forth, would it not be more economical to develop the electric load than it would the gas load? A. We don't believe so.

XQ. Why? A. Because we firmly believe our electric business and our gas business can be best fostered by allowing them to compete for the business in any given area.

XQ. Irrespective of the capital expenditure required? A. I assume that the expenditures will take care of themselves.

XQ. Do you know whether or not any of the gas subsidiaries have any all gas services except for lighting, within housing developments in the service areas of the electric system? A. This is an electric area?

XQ. Do the gas subsidiaries have any all-gas services [2249] in the electric service area? A. Surely.

XQ. Excluding light? A. Surely. Surely.

XQ. Do you mean the house is heated by gas, and the refrigeration by gas, and the stove by gas? A. I would doubt whether the refrigeration would be gas but I am sure we have areas where it would be gas heated; gas ranges; gas driers; gas hot water heaters.

Electricity would probably only be used for lighting and for refrigeration.

XQ. And air conditioning? A. Well, the gas people really do not have a good air conditioning setup except on a central air conditioning basis, and there are very few such central air conditioning set-ups in a residential area in New England. Most of the air conditioning in New England is in homes, done by room air conditioners, which normally would be electric.

XQ. Do you have any electric subsidiaries within housing

developments in a service area of the gas companies that have all electric services? A. Yes.

XQ. Is that general or an exception, as a rule? A. I don't think you can generalize on it. I don't think you can generalize on it by areas: nor can you [2250] generalize on it from the point of time.

Again, it depends on the individual builder, what he thinks he can sell. He may have a prejudice against electric. He may have a prejudice against gas. People's reactions vary in areas. Some people have grown up in gas homes and when they buy a new home, that is what they want. Other women have been used to electricity. That is what they want. If the builder thinks that he can sell electric homes better than he can sell gas homes, that is what he builds.

XQ. From the viewpoint of Management, who determines whether a given area will be all electric or all gas? A. Management never determines that.

XQ. How is it determined?

You say you have both. You have all gas. You have all electric. What is responsible for that? A. You said all electric developments. You did not say the whole area was gas or electric. Is that correct?

XQ. No. I said here—

Hearing Examiner: Off the record.

Discussion was had off the record.)

Hearing Examiner: On the record.

I will ask Mr. Nowlin to re-state the question, if he has it written out there; to re-put the question.

By Mr. Nowlin:

XQ. The first question I asked do any of the gas [2251] subsidiaries in the NEES system have any all-gas services, except electric lighting, you have to have light within housing developments, in service areas of electric subsidiaries? A. I think the answer to that is yes, and I understand by

that question that—do you mean that in areas where we serve both gas and electricity, that a definite or a single housing development might go all gas?

XQ. That is right. A. The answer to that is yes, but you might have one next door that is all electric, that would be in the service area of the same two companies.

XQ. Well now, the next question is, who and what factors are determining of those exclusive developments? A. The opinion of the builder or the owner or the developer, as to whether he wants gas in his development, or whether he wants all electric.

XQ. Do you mean the Management has nothing to do with whether they use gas or use electric? A. The only thing we have to do with it is to make sure the electric salesmen and the gas salesmen do the best job they can to sell their respective product to this new builder.

Hearing Officer: Well, Mr. Krause, do I understand from what you said in your testimony, that when a developer of [2252] a new subdivision decides he is going into the building proposition, does he come to your company and make application for the service he wants in that particular subdivision? A. Well, if our salesmen are doing a job, Mr. Swift, they are aware that a subdivision is going to be built, and they are out there very quickly, telling him that he ought to go all electric or if a gas salesman, he is telling them they ought to go all gas.

Hearing Officer: I think I recall that from your testimony, your salesmen approach the builder, and then the builder decides what he wants to do.

Is that correct?

The Witness: Very definitely.

By Mr. Nowlin:

XQ. In the course of the previous testimony, reference was made to Bronze Medallion Homes, and Gold Medallion Homes. As I understand it, your Bronze Medallion Homes

in the NEES system are all electric except for house heating. Is that correct? A. That is generally true. They have to meet certain standards of lighting. This is not to a NEES standard, Mr. Nowlin. This is a standard that was developed by the Sales Division of the Edison Electric Institute, and requires certain major appliances, certain standards [2253] of lighting, and that type of thing, and if they meet that, then they are allowed to display a Bronze Medallion. It is a sales feature, which a builder employs in selling the home, and the public is used to seeing the advertising of General Electric, Westinghouse, and other equipment manufacturers, as to what this means, and then they have some idea that this home meets that standard.

XQ. Now, do you know how many of the Bronze Homes are located within the service area of the gas subdivision?

A. No, I do not.

XQ. Do you know how many Bronze Electric Homes you may have in the NEES system? A. I don't believe I have that data with me. I imagine there are quite a number of them.

XQ. Would it run into the thousands or hundreds or do you have any idea? A. Oh, it would run into the thousands.

XQ. Now, how many Gold Medallion Homes are there in the NEES system? A. Well, the Gold Medallion Homes are Bronze Medallion Homes with electric heat, but not all electrically heated homes can qualify for the Gold Medallion because the builder might skimp a little on the amount of lighting he put in the house. I don't have the figures for the Gold Medallion Homes, but I do have the figures for electrically heated [2254] homes at present, and as of a recent date, there were 459 such electrically heated homes.

XQ. Do you mean all electric heated? A. Yes. Where electric heat is the sole source of comfort heating.

XQ. Does that mean in the entire system? A. Yes.

XQ. And would the number of Gold Medallion Homes

be less than that figure, do you think? A. It might be a few less but I say roughly, they are pretty much comparable, because usually, a builder would be willing to spend a few extra dollars. Usually it is in the wiring of the lighting, I mean, that where the skimping is made, usually you spend a few extra dollars to get the Gold Medallion.

XQ. Do you know how many electric homes you have installed since the introduction of the special rate?

A. Well,—

Mr. Dunn: Do you mean electric heated homes?

Mr. Nowlin: Yes.

The Witness: Up to December 1958, we have 61 electrically heated homes. In 1959, we added 66 more. In 1960, we added 289 and it was in the early part of 1960 that the house heating rate went into effect. The three months of 1961, we added another 43.

[2255] XQ. Now, will the advent of your Atomic Energy by virtue of the Yankee Plant, tend to help you with the installation of additional electric heating? A. The only way it could help would be if it appreciably lowered the cost of making electricity, and Yankee has not done that.

XQ. Do you know what the NEES promotional rate for electric house heating is? A. Again, I would say it is not a promotional rate, Mr. Nowlin.

XQ. What is your term? I will try to adhere to that.  
A. House heating rate.

XQ. Electric house heating rate? A. Yes. At present fuel costs, it is \$10.00 for the first 400 kilowatts per month and then 1.9—about 1.94 cents per kilowatt hour for each additional kilowatt hour.

Now, that first 400 kilowatt hour, takes care of the normal use in the average size house for electrical appliances, other than heating, and we would assume that if a man had electric heating, he would have electric range, electric hot water heater, too.

XQ. Taking a given house, say a new house, either eight or ten rooms, whichever assumption you want to take, how does the cost of electric house heating compare with [2256] that of gas house heating? A. What kind of a house do you have? Does it have the same insulation or does it have insulation recommended for gas heated house, or electrically heated house?

XQ. Well, just assume that it is wire for either. I mean, built for either, or is that possible? A. Well, I don't think you would find in the average gas heated home, they would insulate it by the same standards they would for an electrically heated home.

XQ. Well, could you give us—take one insulated for electric heating; one built for gas heating. Could you give us the competitive cost there? A. Our electric people say that it costs from \$8.00 to \$10.00 a month more to heat by electricity than by gas.

Now, if you were willing to spend extra money for insulation in your gas heated home, you could probably broaden that difference.

XQ. Could you tell us briefly how your electric heating operates? Is it radiant heating? Do you have any hot water electric heating? Just how is it? A. In New England, practically all of the installations are resistance type heating, either by having resistance rods in baseboard units, or by embedding resistance wire in ceilings, and of course, if you did that, you would have a radiant type heating, as compared with the conventional type [2257] if it were in the baseboards.

XQ. Are you familiar with the electric house heating in the American Electric Power System? A. Generally.

XQ. Do you know whether or not the type of house heating—electric house heating—they are installing is the same thing as you are installing in NEES? A. I think in the American Electric Power System, they are in an area where

they make greater use of the heat pump and they have not seemed to develop a heat pump yet which will work satisfactorily in the New England climate.

XQ. Do you know how the rate of growth of electric house heating in the NEES system in 1959, in 1960, compares with the growth of the gas house heating during the same period? A. Well, I think the gas is ahead of it. You understand that you have a different potential market for gas house heating than you do for electric house heating. You can sell a gas house heater to a man who has hot water or steam or hot air system that may be 20, 30, 40 years old. The only thing you are selling him is the method of making the heat. He uses the same equipment for conveying the heat to the room. By and large, a customer for electric heating has a new home, because I don't think many people would junk their [2258] existing heating system to put electric heat in. It would not be economically sound. There are some conversion jobs in electric heat but by and large, they are real old homes where the heating system is no good and you start over and make the whole house over. So that the potential market for electric heat necessarily is much smaller than for gas heat because you are, by and large, dealing only with the new homes.

Mr. Nowlin: Mr. Examiner, that is all I have of Mr. Krause at the present time.

The Witness: Thank you.

Hearing Officer: You may retire from the stand, Mr. Krause.

(Witness excused.)

Mr. Dunn: Mr. Examiner, this morning it was stated on the record that counsel for the Commission and counsel for the Respondent would confer as to information requested with respect to the amount of electric operating revenues that were brought down to utility operating income.

We find this information is contained in the Annual Statistical Reports in the years 1958-1959, that are already in the record as Respondent's Exhibits 76 and 77 and it is my understanding that this is the information they are requesting.

Hearing Officer: Thank you, Mr. Dunn.

[2259] Whereupon,

**HAROLD L. DALBECK**

was recalled as a witness, and having been previously sworn, was examined and testified as follows:

*Cross Examination*

By Mr. Nowlin:

XQ. Mr. Dalbeck, at page 756 of the transcript of the hearings, you referred to interim service under the G-6 rate and peak service at a flat rate of 90 cents.

Will you please explain the difference, if any, between the two services? A. Yes.

The peak service rate at 90 cents was a rate that was offered by Tennessee Gas Transmission to the New England companies, and was approved by the Federal Power Commission on a year-to-year basis. That rate was refused to the New England Companies in 1959, and at that time, the Federal Power Commission did authorize the so-called interim service. This interim service is not in any sense a peak service rate. This interim service only gives to the companies in New England, a right to take gas beyond their authorized daily quantities, but at regular G-6 rates.

XQ. Can you tell us what the G-6 rate is? A. The G-6 rate is the general service rate under which we buy gas that carries a demand charge of \$5.55 per M.C.F. of [2260] demand, and 36.1 cents commodity charge. That is the rate under which we buy all our gas at the present time.

XQ. Is the interim gas billed to you separately with a

separate load factor? A. It is not billed in a separate load factor. It is billed separately over and above the authorized daily quantity that is authorized, through the Federal Power Commission but it carries the same rate and is extended the same amount as the G-6 rate.

XQ. According to Exhibit No. 62, the interim services expired on October 31, 1960. Is that correct? A. That is correct. For that year.

XQ. Were these interim service contracts extended? If so, at what price, and for what period? A. The interim service rate, was again approved by the Commission for the 1960 and 1961 winter, under the same terms and conditions as the rates, the interim service under which I have described.

XQ. There was no increase in rates than? A. No. No. It is at the same G-6 rate.

XQ. How does the cost for the interim gas compare with the previous price of 90 cents per M.C.F.? A. Substantially in excess.

XQ. Do you know what the figure is? A. Well, that will vary. That will vary, depending upon [2261] the amount of gas that you take in any one day.

In other words, there is an economical level at which we cease buying interim service, or G-6 service gas and that figure is around \$1.70 to \$2.00 an M.C.F. You can pay as high for interim service gas if you only took one M.C.F. as the demand charge, plus the commodity charge for that one M.C.F. of gas.

XQ. What advantage do the NEES gas companies get from the interim service? A. The only advantage that NEES gets from interim service gas, is to those companies whose authorized daily quantity as approved by the Federal Power Commission, is presently being exceeded. In other words, the company that had an authorized daily quantity of 8,000 feet per day M.C.F., per day, then this interim

gas is available to them at an amount they stipulate in excess of the 8,000 feet for this one winter.

XQ. Mr. Dalbeck, are you familiar with the order entered by the Federal Power Commission under date of January 28, 1959, in Docket No. G-11-107? A. Yes, sir.

XQ. According to the order which we have before us, it directs Tennessee Gas Transmission to "include as a part of its next major certificate application, a firm proposal for the full incorporation of its underground storage facilities, into the overall operation of its [2262] pipe line system, and the full utilization of its storage capabilities, and rendition of its natural gas services on a reasonable, fixed, and certain basis, to secure the maximum benefits thereof, equitable to all its customers." Then there is a footnote: 21 F.P.C. 84.

In its opinion accompanying that order, the Federal Power Commission stated that the program should be expeditiously developed, "to supplant the proposed long term peak service we are denying by this order." (21 F.P.C. 81.)

And it is stated further, on the same page of the opinion: "Of course, the rates, terms and conditions of this service would have to be designed by Tennessee, responsive to the New England market. While the rates should be fair and non-discriminatory, they should be sufficiently low to assure the availability of the service in helping to meet the needs heretofore met by the peak service, denied by this order."

Now, Mr. Dalbeck—

Mr. Dunn: What page is that?

Mr. Nowlin: It is on the same page.

I was continuing on.

The foregoing is apropos of your testimony, page 758, as follows:

Hearing Officer: Wait. Let him get the testimony in front of him.

Mr. Nowlin: On page 758.

[2263] Hearing Officer: Go ahead, Mr. Nowlin.

Mr. Nowlin: This is the quote.

"Is the elimination of peak or storage service a serious blow to New England Companies?

"Answer: Yes, it is. We estimate that the elimination of this service will cost the NEES system gas companies about \$500,000 per year."

Question: Isn't it possible, Mr. Dalbeck, that the increased cost to which you referred may be considerably relieved if not eliminated by future developments along the lines set forth in the F.P.C. order and opinion, which I have just quoted.

The Witness: Well, I don't think we can assume that this Federal Power Commission order, as quoted, will necessarily ever be made effective insofar as the New England area is concerned. In the first place, as I understand the rights of the Federal Power Commission, they cannot order Tennessee to file any rate at any price. Tennessee has the initiative to file its rate and once filed, then the F.P.C. has the duty to determine the appropriateness of the rate.

The order that you referred to, dated January 28, 1959, under G-11-107, was followed insofar as the Tennessee certificate case was concerned, and they did suggest, in fact they incorporated in the certificate a storage service rate. This storage service rate was substantially in excess [2264] of what the cost of gas was to us under a peak shaving rate.

As a matter of fact, we figured the cost to our company somewhere about \$1.40 to \$1.50 but even that was not made available to us because immediately, in that certificate, when the rate was filed, some of the other distribution companies down the line, specifically Columbia and Northern Natural, took such violent objection to even this storage service rate at the \$1.40 to \$1.50 rate, and also due to the fact that, because of the late filing, in order to get any gas

at all, any additional gas at all in the winter of 1960 and 1961, Tennessee withdrew this storage service rate and included only in their certificate the additional gas that the New England companies requested. And Tennessee did include this interim service feature which gave us the additional authorized gas at the G-6 rate.

Now, this is where we stand now, insofar as peak saving or peak shaving or storage service gas is concerned.

There is no indication at this time, that we are going to be in any position other than our present position.

XQ. Has anything developed, Mr. Dalbeck, with the part of the order which directs Tennessee to incorporate in its next certificate application, a provision for underground storage facilities? [2265] A. No, sir.

XQ. So any developments along that line are for the future, is that right? A. Any developments, if they come, are for the future. Yes.

XQ. Do you have any knowledge of whether or not Tennessee is now working on a project of that nature? A. To the best of my knowledge, they are not.

XQ. Now, with respect to your estimated \$500,000 of costs to the NEES gas companies, to what extent if any has this increase materialized since you last testified in this proceeding? A. When we estimated the \$500,000, that was for a winter season, from August to May 31. The actual effect on our operating revenues for the year 1960, as near as we can estimate it, is around \$350,000.

XQ. Is the impact of that increase going to require an application for a rate increase from the State Commission? A. That is something that will have to be decided as time goes on. I think, as I previously stated, we are attempting to build our load just as fast as we can, to try to offset these increased costs by increased revenues, and I would be hopeful that we can proceed without increases, but this is something that—

[2266] XQ. Am I correct in my understanding, this was only a non-recurring situation, and that your interim service has been restored for 1960-1961?

Is that correct? A. Insofar as the cost of gas is concerned, it is not a non-recurring item. Insofar as we can see, into the future, and certainly I am talking of what we know of the year 1961 and 1962, we are going forward under the same conditions and under the same additional authorized gas at the G-6 rate as we are now experiencing. I see no relief in that, at this time.

XQ. What did the interim gas actually cost you, Mr. Dalbeck, for the winter season of 1960-1961? Per M.C.F.? A. That would be a very difficult—I don't think that question is answerable because it all depends on where in the step of the demand charge the gas that you are talking about is purchased.

XQ. Is it your testimony then, Mr. Dalbeck, that the only effect of the interim gas is to give you a larger quantity of gas? A. Absolutely. That is all. That is all it does.

XQ. Now, directing your attention to Exhibit 67, this exhibit shows that the cost of natural gas for space heating at Malden, Massachusetts, is 97.59 cents per M.C.F., on the basis of 27 percent load factor. On page 866 of the [2267] transcript, you stated that 27 percent is the approximate average load factor for space heating gas.

Please explain that statement. A. Well, when we take the figure of a 27 percent load factor, we are taking that on the basis of the average degree days that we estimate for the year, in relation to what we consider to be the maximum degree day, and that happens to be approximately 27 percent of the maximum day. So that, in other words, gas for heating is taken above the average for the day, or the average day.

XQ. Well, do you know, Mr. Dalbeck, how that gas is taken? A. This has to be a theoretical computation. We

know what our firm load is, or we estimate what our firm load is, insofar as water heating, ranges, driers, and so on; and having established that so-called firm load, then the load that is taken above that firm load is assumed to be house heating gas and it is theoretical but it is a measurement.

[2268] XQ. Does the cost of 97.59 cents per mcf shown on Exhibit 67 become a cost of \$1.11 per mcf because of the rate increase on the Tennessee Gas Transmission Company in April, 1960? A. Yes, sir.

XQ. In comparing the cost of space heating gas with the price of number 2 oil on Exhibit 67, how do you justify the use of 27 per cent load factor to arrive at the cost of gas? A. Well, I think we have assumed a 27 per cent load factor as what we consider to be the average load factor for gas and we base it at that point in the comparison with oil. This is a figure that is normally used.

XQ. Is this type of comparison a customary method used in making a cost comparison between space heating in gas and oil? A. When we come to making a comparison of the cost of heating between gas and oil, then we leave the load factor area and we move into the specific area of btu's in the oil as compared to the btu content of the gas, the size of the house and determining heat loss and making our comparison on that basis.

XQ. Page 867 of the transcript you stated that the NEES gas companies do not actually buy gas at the 27 per cent load factor and that the price paid was something lower than the 27 per cent load factor price. Did you make that statement? [2269] A. Yes. I think on an overall basis the gas we buy is probably closer to a 50 to 55 per cent load factor, but for the average of the space heating gas which we must take over and above that average, we reduce the load factor of the house heating down to the 27 per cent.

XQ. At page 762 you stated that our companies have a

firm gas load factor in the range of 40 to 50 per cent. Can you give us the load factor for each of the NEES gas companies? A. No, sir. I think it would generally apply consistently throughout the companies, but I haven't it for each individual company.

XQ. Do you know or can you supply for the record the load factors at which the Massachusetts Gas Companies reflected on Respondent's Exhibit No. 90 purchased their natural gas? A. No, I don't think that would be obtainable.

XQ. Apart from the price factor, what other factors enter into the competition between gas and oil as a heating fuel? A. In addition to the price factor, we consider the cost of electricity, the service on the oil burner, the cleanliness of gas as compared to oil, the service that the gas company gives to a heating customer as compared to the service that he can expect from oil, all those are important elements in comparing gas as a fuel with oil.

[2270] XQ. In designing a rate for space heating, is it the practice of NEES gas companies to use a 27 per cent load factor? A. Load factor does not come into the design of the rates.

XQ. What factors do you take into account in presenting it? A. Well, when the rates for house heating were originally set, they were set at the rate that was considered an adequate return on the investment devoted to house heating would give and also without question of a doubt the competitive market was analyzed to determine at what price gas could be sold.

XQ. What do you actually get from the house heating customer for gas heating? A. Do you want to take a specific example or do you want in general?

XQ. Give it to us both ways, if you will. A. Well, at the present time for the 12 months ended February, 1961, based on present costs of gas and present costs of oil, and assum-

ing an average house, using 120 mef of gas, with a 75 per cent efficiency, we estimate the cost of gas to be \$170.00. The cost of oil, including electricity for the burner and oil service at \$13.50, which is a range that would run from 10 to 20 dollars, would cost \$172.00. So that at the present time we are on almost an equal basis fuel for fuel with oil.

[2271] XQ. In general, what do you get per customer for mef for gas house heating? A. Well, the lowest of our rates for house heating is \$1.41 and a fraction and most of the house heating is at that rate.

XQ. Would that \$1.41 for gas compare with \$1.09.14 for oil? A. Now you are back on Exhibit 67?

XQ. Yes, sir. A. No, because this figure for oil does not take into consideration the efficiencies of oil and neither does it take into consideration the use of electricity or service on the oil burner.

XQ. If you take those into consideration, Mr. Dalbeck, what figure would you get for oil? A. Then you get up to about—well, you get close to a dollar and thirty and thirty-five.

XQ. What efficiency factor did you consider for the oil? A. For the oil, 65 per cent.

XQ. And for the gas? A. Seventy-five per cent.

XQ. Now, I am having a little trouble with comparing the cost of gas at a 27 per cent, what I will call a fictitious load factor, when you are actually buying the gas over the year on an average of 50 to 60 per cent load factor. Is it [2272] fair to compare the 27 load factor on house heating rather than to use the average load factor cost for the year? A. I think that first on Exhibit 67 you have to recognize that what we are talking about on this exhibit is the city gate cost of gas. In other words, this is what the gas cost us from the pipeline company at the city gate and is not the selling price of the gas, and also the cost of oil is the

cost of oil as priced in the market and takes no account of efficiencies.

XQ. Well, I don't think you still answered my question. The problem I have is using a 27 per cent load factor to determine the cost of gas as compared with oil when you take your gas on an average load factor for the year between 40 or 50 per cent, don't you? A. Yes.

XQ. Now, how can it be fair, then, to use a conjectural 27 per cent load factor for comparison with oil rather than the average load factor for the year, 40 to 50 per cent? A. This exhibit was not intended to reflect the comparative selling price of or, rather, the comparative cost to the customer of either oil or gas.

XQ. No, but you are making a comparison here of the cost of gas to the cost of oil; isn't that right? A. Yes.

XQ. And you are using a 27 per cent load factor as a [2273] basis for the cost of gas and really you buy your gas on an average annual load factor of 40 to 50 per cent. A. But that annual load factor of 40 to 50 per cent takes in a tremendous amount of firm load gas that could be up in the range of 80 to 85 per cent load factor.

XQ. Isn't it a fact— A. So that if you take a firm load that might be an 80 or 85 per cent load factor and the low load factor of house heating, you come to this house heating load factor of 27 per cent.

XQ. Aren't you attempting to segregate out one phase of an annual load factor and price that at one price and price the other gas at a different price? A. Yes, but the purpose of this exhibit was only to show comparisons as between various communities within the United States. It wasn't intended to be definitive, a definitive statement of our price of gas as compared to the price of oil.

XQ. I may be a little dense on this and if I am, I hope you will clarify it for me, but as I see it, what you are doing

is you are comparing the cost of gas with the cost of oil.

A. Right.

XQ. Now your gas, the annual average costs, the average taken on an annual load factor is 40 to 50 per cent, [2274] isn't it? A. Yes.

XQ. And isn't the cost of gas to the NEES System based on that annual average load factor of 40 to 50 per cent?

A. Yes.

XQ. Then I have difficulty in seeing how it is fair to compare a 27 per cent load factor, assumed 27 per cent load factor with the cost of oil. A. Well, because the 40 to 50 per cent load factor includes gas that is purchased by our customers throughout the year. The house heating gas is purchased over a relatively short period of time during the winter months and reaches a maximum within maybe a week or ten days of the total winter season and that obviously will reduce the load factor of the heating gas.

XQ. Well, what you are doing is comparing a seasonal cost of gas with the cost of oil, rather than your annual cost of gas, aren't you? A. I think for house heating you have to take a seasonal cost of gas.

XQ. You think that is a fair comparison? A. Oh, yes, it has to be.

XQ. Well, now, how about the cost of oil? Doesn't the cost of oil vary off and on during the year and don't they have an average annual cost, rather than a heating season [2275] cost? A. Well, in order to determine an average cost of oil, you would almost have to take daily or weekly prices and average that through because oil has the characteristic of being low in the summer and then as the heating season increases, reaching its peak and that peak depends to a very large degree on the amount of demand that there is for oil so that it really reaches, oil reaches its peak probably for only a week or two weeks of the winter season.

It is a little bit difficult to average the price of oil, particularly for the heating season.

XQ. Now, isn't most of this oil purchased in the off-peak season, in the summer months for the oncoming use in the winter? A. No, not in the residential district.

XQ. In other words, the thing, it seems to me, comparable, if you had storage facilities you would purchase your winter gas in the summer at a cheap rate that most of these other companies do and I assume the oil companies would do the same thing, they would purchase the cheap oil in the summer for the winter use. A. The oil companies may do that to a degree, but the customers normally will only have a 275 gallon tank in their backyard and that is the limit of their storage.

XQ. Let's assume a hypothetical situation, that you did have a storage facility in New England to store gas and purchase [2276] it during the summer value period, where you could get it at a cheaper cost. If you had that situation, would it be fair then to compare the load factor which that gas was taken in the summer months with the winter months? A. Oh, I think at that point, if we had storage in New England, then this 27 per cent load factor figure might very well vary. As a matter of fact, it might get up to the 40 to 50 per cent average that we speak of.

XQ. That is the one thing that was confusing me because several of these companies buy their gas in the summer months at the cheap price and put it in the ground, rather than to price it out at the cost in December or January. A. I wish we could, but there are no facilities in New England for that sort of thing.

XQ. Now, along that line, at pages 764 and 863 and 873 you indicated that studies were underway for providing more economical peak shaving gas. Do you recall that?

A. Yes.

XQ. Will you tell us the nature of these studies and what

progress has been made? A. Well, following a line break of the Tennessee line coming into New England, the New England Companies that had production facilities were forced to produce gas for the benefit of other companies that did not have those facilities. That called attention to a situation that the New England [2277] companies considered to be rather critical, so that as a group all of the New England Companies who were customers of either Algonquin or Tennessee combined to study the plans for emergency gas. As a result of preliminary studies, we chose Stone and Webster Company, feeling that they had the most experience in the field, to go into this situation and they did in a preliminary form. This study involved obtaining information not only from each company, but from both the pipeline companies and melding together the complete facilities of New England into one system, really, so that we could see what was required insofar as emergency service. They investigated cavern storage, discarded that; they investigated L.P. air, they discarded that; they investigated transmission of LP gas through pipelines, discarded that. They finally came up with a recommendation that seemed to indicate that a liquefied natural gas plant might be a logical answer for New England. Based on their preliminary findings, the companies authorized Stone and Webster to proceed with an investigation of a liquefied natural plant, which would be located in the New England area and which would serve not only as an emergency supply of gas for New England, but also could be used as a peak shaving plant in the winter. That report has been submitted by Stone and Webster to the companies. It looks as if it does have some merit. Certainly there is a possibility that this is worthy of consideration, but there are a number [2278] of factors that have still got to be considered. Practically, this plant could probably be built. Unfortunately, however, insofar as the

New England companies are concerned, we are still not talking about any cheap gas because their studies indicate that this liquefied natural gas would cost us about \$1.57 a thousand at the liquefied plant. This \$1.57 includes, of course, return on investment. Then you come into the problem of once you have built this plant, have got the plant in the process or to the point where it can produce this gas you still have got to make arrangements with the pipeline companies for the transportation of this gas from this plant through the system so that it can be fed into the distribution companies' own systems. At this point, there has been no indication from the pipeline companies, first, that they are even interested in transporting this gas and, secondly, if they do transport the gas, how much it is going to cost us. This liquefied natural plant feeding all of the companies of New England also creates a problem as to who is going to own this plant—is it going to be a Yankee atomic type of ownership with all of the gas companies participating; is it going to be owned by either one or both of the pipeline companies; is it going to be owned by some processor who is willing to come into New England and build the plant and sell the gas at the plant through the pipeline to these companies. These problems are still unresolved and, as I [2279] say, the economies of the thing indicate that it is a practical thing to do, but at the moment it looks as if this is more or less a standoff with our own existing LP air plants insofar as cost of gas to the distributing companies that are concerned.

The study is still in progress. Serious consideration is still being made as to the problem. There are a lot of very complicated and intricate problems to be solved and work is still going ahead on it. This is not going to mean cheap gas to New England.

XQ. I have here before me an excerpt from the News Digest which I will show you and see if this is the project

that you were talking about. A. I think it is the same project, except that that relates the movement of liquefied methane from outside of the U. S. and tanking it up here and this is not a part of this program. This was considered and discarded, too.

XQ. This project mentioned in this Digest has been discarded? A. Insofar as the transportation of liquefied methane through tankers into New England, yes, but I think that this refers to the project, the same project that I have been discussing when it says that New England Gas Companies are about to move, but they are a little premature because we are not about to move.

[2280] XQ. According to this article, the best tank plants of storage area would be around Worcester, Massachusetts. A. The recommendations of Stone and Webster indicated that the most desirable place for this plant would be at a location that would be between the two pipelines; that is, the Algonquin line coming up through Connecticut and the Tennessee line coming in from New York State and the location that they have recommended is within the vicinity between Worcester down to the Rhode Island line in that Auburn, Oxford, Worcester area.

Mr. Nowlin: If there is no objection, I would like to incorporate this into the record.

Mr. Quarles: Might we at least have an opportunity to look at it and see what it is we are talking about?

Mr. Nowlin: Surely.

Mr. Quarles: Mr. Examiner, I am not familiar with this Digest, but examining it hurriedly I find this note: "The News Digest is issued for the information of the members and staff of the Federal Power Commission. The appearance of any material herein taken from sources outside the Commission does not indicate approval by the Commission of such material or of any opinions expressed or implied therein."

I question the relevancy of this or the value of it in this record. I don't see that we have any particular objection if Mr. Nowlin wishes it to go in, but I doubt its [2281] usefulness.

Mr. Nowlin: My thought was, Mr. Examiner, we did ask a few questions and the witness said this was the project to which he was referring and I thought it might be of value.

Hearing Examiner: Are you offering this as a Division exhibit?

Mr. Nowlin: Yes, sir, if there is no objection I would like to.

Hearing Examiner: I didn't understand there was an objection on the part of counsel, Mr. Quarles, and the News Letter which you have been interrogating the witness about is admitted as Division's Exhibit No. 5.

(Division's Exhibit No. 5 was marked for identification and received in evidence.)

Mr. Quarles: And I assume that we would have the right, after examining it, to ask questions about it.

Hearing Examiner: Oh, yes.

Mr. Nowlin: I don't know whether he could ask questions because none of us know any more than what the document says.

Hearing Examiner: Well, we will cross that bridge when we get to it.

Mr. Quarles: Do I understand from you, Mr. Nowlin, that neither you or Mr. Gishman know anything about this so you [2282] wouldn't be able to ask questions about it?

Mr. Nowlin: We know nothing more than what the document sets forth.

Mr. Quarles: I think we would object to its being entered, Mr. Examiner.

Hearing Examiner: Well, I think the objection goes to

the weight to be accorded this and I adhere to my ruling.  
You may have an exception, Mr. Quarles.

Mr. Quarles: Thank you.

By Mr. Nowlin:

XQ. As a matter of general inquiry, Mr. Dalbeck, does this liquefied gas, is this comparable to what the East Ohio Gas Company used to have a few years ago when they shipped frozen gas up the river and put it into the tanks that later became liquefied gas? A. Unfortunately that is so and that is one reason why the location chosen by Stone and Webster is in this isolated area, because the Bureau of Mines' requirement for the location of this plant is that there be, I think, a half mile perimeter around from the center of the plant.

XQ. In general, what are the NEES gas company customer rates for house heating gas? A. Pretty consistently \$1.41, plus a fraction, which represents the escalation charge due to the price adjustment clause in the rate.

[2283] XQ. I think you said the comparable figure for oil was around \$1.35; was that correct? A. What?

XQ. A dollar thirty to a dollar thirty-five. A. I don't understand.

(Question read by reporter)

The Witness: Yes, converting the 75 per cent load factor.

By Mr. Nowlin:

XQ. With this disparity in price, how have you been able to sell gas for gas heating in the New England area? A. Because on the basis of the example that I gave you, in spite of the fact that competitively oil and gas are practically at the same level, the benefits of gas heat progressively advertised, promoted, and driven home to perspective customers is resulting in our selling heating. They prefer gas heat.

XQ. As to the competitive situation for house heating in

New England as between the use of natural gas and the use of oil, are NEES gas subsidiaries in any different position than that of the other gas companies in the State of Massachusetts? A. I think in general the answer would be no. There may be slight variations in our rates as compared with some of the other companies, but some are lower and some are higher [2284] than others. No, I think we are all in relatively the same comparative competitive position.

XQ. Now, do you know when each of the NEES companies began receiving natural gas? A. All companies, with the exception of Norwood, began receiving natural gas in 1952.

XQ. And when did Norwood get into it? A. Norwood got its gas in 1954-1953.

XQ. Do you know when the other non-affiliated gas companies included in Respondent's Exhibit No. 90 first received their supply of natural gas? A. The Tennessee customers all received gas in about 1952; the Algonquin customers in 1953.

XQ. Do you know which of the non-affiliated gas companies reflected on Exhibit No. 90 obtained their gas from Tennessee and which obtained it from Algonquin? A. Exhibit 90?

XQ. Yes, sir. A. Insofar as the NEES companies are concerned, Norwood Gas is the only one purchasing from Algonquin. Berkshire Gas, Tennessee; Boston Gas, Algonquin; Brockton-Taunton, Algonquin; Buzzards Bay, Algonquin; Cambridge, Algonquin; Fall River, Algonquin; Fitchburg, Tennessee; Haverhill, Tennessee; Lowell, Tennessee; New Bedford, Algonquin; Springfield, Tennessee, and the Worcester Gas Light Company receives most [2285] of its gas from Tennessee, but that portion of the Worcester Gas Light Company that was formerly the Dedham-Hyde Park Gas and Electric Company purchased from Algonquin.

XQ. Again referring to Exhibit 90, which of these non-

affiliated gas companies shown thereon converted to straight natural gas at the time that natural gas became available in Massachusetts? A. The only company that didn't convert to straight natural gas was the Boston Gas Company.

XQ. Do you know when they finally took on a straight load? A. Well, the Boston Gas Company has progressively through the years taken on increasing amounts of natural gas and there were certain areas which were primarily the outlying Concord-Acton area, a substantial number of their customers have always been straight natural gas or, rather, have been taking straight natural since natural gas came to New England. Boston Gas started with a five-sixty btu gas, which was purchased from the coke oven plant in Everett and they have gradually through the years increased their taking of natural gas until last year they converted completely to straight natural. Prior to that, I think in 1959, they were taking eight hundred btu gas as compared with natural gas at a thousand btu.

XQ. Now, on page 724 of the transcript, it is stated [2286] that one of your assignments was to organize a central office for the Worcester Gas Light Company, which later became a subsidiary of NEGLA; that is, New England Gas Light Association, if I remember right. In that connection you also stated that "initially general accounting, sales, purchasing, stores, transportation and top management were centralized and later customer accounting, as well." What did you mean by centralized customer accounting? A. Customer billing.

XQ. How was customer accounting performed in NEGLA prior to centralization? A. There were a lot of different combinations, including some hand billing operations in some of the smaller companies, combinations that I am sure many people here wouldn't recall where they used an adding machine and a Todd protectograph to write the amount of a bill. I would say that the customer's billing at that time

was relatively to the nature of the times and they were using what was considered to be modern equipment where they were using equipment.

XQ. In that connection, what was the purpose and objective of centralizing customer accounting? A. Well, when we originally organized the central office, we set up a general accounting, moved that to the central office and we found that once we had both general accounting in, we had machine time available to pick up [2287] customer's billing and that was the major reason for doing it.

XQ. Do you know how the customer accounting costs after centralization compared on a per customer basis with the prior cost? A. No, I don't recall that, sir.

XQ. Does NEGLA still have centralized customer accounting? A. Yes, sir.

XQ. Will you please describe for us, Mr. Dalbeck, the customer's accounting processes from the reading of the meter to billing? A. Well, the first thing that a prospective customer does is to either call or come into the office and request service, and at that point an order to connect service is made out and delivered to the service department where they go out and in the case of a gas meter they install the gas meter and in the case of an electric meter, they read the meter. Concurrently following that a meter sheet is developed or a change in the meter sheet is effected to show that customer's name and the meter book is held with this account until the meter reading date. At the time of the meter reading, the meter readers go into the field, mark on the meter reading sheet the dial registers, returns these books daily to the office, at which time the meter reading book is usually audited against previous readings to see that the [2288] reading is consistent. The meter books then go to a billing department where a bill is prepared, a proof of billing is made in order to assure the accuracy of the billing, the bill is sent, one copy of the bill being

sent to the customer, a stub is sent to the customer's accounting department, which becomes the bookkeeping record, the bill becomes payable within a reasonable period of time and the customer either sends a check to the office or comes into the office and pays the bill. The record of that payment goes to the bookkeeper; the bookkeeper posts it and at the end of each cycle or prior to the next meter reading period the book is balanced and the account reconciled. I am sure I have left out a lot of ramifications, but that is a routine without going too far.

XQ. Now, how is customer accounting done in the NEES System on a decentralized basis? A. The same way.

XQ. How was it done on a centralized basis? A. The same way. In other words, it makes no difference when you centralize or whether you do your billing at a local office. The same process is involved. The only difference is that the meter books go into a billing room or they are transmitted to a central office for billing. The process is the same.

XQ. Is there any problem involved, Mr. Dalbeck, in sending the meter reader book to a central billing office? [2289] A. No problem; only delay. And this is one of the disadvantages of centralized billing.

XQ. Now I believe in your previous direct testimony you gave us a time schedule of the amount of time that it would take to reach different points in the NEES system, didn't you? A. By driving, yes.

XQ. Do you think that that would involve a substantial amount of time, centralizing the meter reader's books in one point? A. You are assuming that you could justify and I will use the term—quote "Pony Express"—unquote to deliver books from a local office to a centralized office. That is done at times. Other times it is not the economical thing to do. That adds to the cost of centralized billing.

XQ. Wouldn't centralized billing give you a chance to

utilize the full manpower, resources and the machines, too?  
A. Oh, yes, but you have to balance one thing against another.

XQ. Aren't there times when your decentralized billing, when some of the people are not all employed eight hours a day, not all working eight hours a day at billing? A. Oh, I am sure that is so, but if they are not working at billing, they are working at something else because none [2290] of our employees have a classification that only confines their duties to billing.

XQ. Aren't there times when some of the decentralized machines, billing machines are not in use that they might be in use if you had centralized billing? A. I am sure that is so, but the economies that you might effect there could be offset by losses somewhere else, on some other area.

XQ. Page 1574, I think you testified that in the past you had made many studies of customer accounting procedures, particularly with regard to centralized billing. What studies were you referring to? A. Well, I was referring to the study that you referred to; I was referring to a study that we made in the Mystic Valley and Suburban Electric Company some few years ago when we merged those companies and had billing equipment in Arlington, in Suburban and—

XQ. Were any of those studies reduced to writing?  
A. To my recollection, I would say no.

XQ. Did you make any study with regard to the advantages, if any, of centralizing customer accounting, particularly billing for the pro forma NEES gas companies' operation and on a combined basis? A. No.

XQ. Now, it has been indicated at various points in [2291] the record that upon separation from the NEES System the combined gas companies would lose advantages with respect to mass purchases. Do you recall that line of testimony? A. Yes.

XQ. Can you describe the particular areas in which this

would occur? A. Oh, I think that the area that was mentioned last week in the purchase of pipe would be an area. I can think of an incident that occurred in the winter that would be almost impossible to measure in value of dollars insofar as the gas companies are concerned, but certainly had we not had the purchasing department of the New England Electric System available to us, it is conceivable that some of our customers would have gone without gas.

XQ. Why was that? A. Well, that was because of the emergency conditions that prevailed, that started with the railroad strikes that prevented shipment of fuels into New England. It was accelerated by a storm that held trucks and cars off the highway for two days, making it impossible to move fuel by trucks and it was further accelerated by the cold December and the longest cold spell that New England has known in 40 years when we had 16 days of a cold spell that required us to use up our supplies of propane and gas and oil to the [2292] point where we were really in desperate need. I am sure that because of the NEES—I know because of the NEES purchasing department contacts with the railroads, with shippers, due to their present purchases of coal and oil that they were able to get the railroads to trace these, ask for and get us deliveries of propane by tank cars over the railroads and get trucks on the road that we couldn't possibly have obtained without their help and actually put us in a position where we could keep on doing business.

XQ. Why do you feel that the eight gas companies, the eight combined gas companies could not independently have obtained the same service? A. Because I don't think our relations with the railroad and truckers, due to the amount of fuel we could purchase in the year, would justify our having the close relationship with these shippers that NEES has with their tremendous power of purchasing fuels as they have. I am convinced of that.

XQ. With respect to the purchases of oil, the total year's purchases, how much is that required for the gas companies and how much required for the electric company? A. I don't have the vaguest notion how much we require for the electric company.

XQ. Do you have the vaguest notion how much they purchased during the year? [2293] A. No, sir.

XQ. Do you know how much your gas company required during the year? A. I don't have the figure here.

XQ. Oil and propane. I meant both of them. Absent any emergencies, do you see any advantages you would get by way of purchasing being on the NEES System than you would if you were separate and on a combined basis? A. You can except these emergencies if you want to, but as far as I am concerned these emergencies are one of the important areas that we call on NEES for help and that is the situation we went through this winter, which was something I wouldn't want to go through without the help of NEES.

XQ. Do you get any price advantages with regard to propane or oil by virtue of being a part of the NEES System? A. I would think that we wouldn't get any real price advantages as far as propane is concerned because the gas companies are buying all of the propane that is purchased in the system.

XQ. How about oil? A. Well, I would expect we would get some advantage.

XQ. But you don't know whether this is right or not? A. I do not.

XQ. How about price advantage on pipe? A. Oh, I would expect that we would get a real price [2294] advantage on price because of the amount of pipe and conduit that is bought by the electric system from the same vendors from whom we purchase.

XQ. Do you know whether or not any of the non-affiliated

gas companies in Massachusetts have an equal experience to that you related? A. Yes.

XQ. Do you know whether they had any trouble getting the required supplies? A. Yes, sir, some of them had to pay ten dollars thousand for excess gas over their authorized quantity.

XQ. You mean the gas companies of NEES had trouble during the winter months? A. That is right.

XQ. And some of the others did? A. Yes.

XQ. What do you mean by authorized quantity? A. The amount that was in excess of their normal demand.

XQ. Do the NEES gas companies have any air conditioning load? A. We have some air conditioning load. The New England market up to this point has not been very active insofar as air conditioning and most of it is in the commercial area, not in the residential.

XQ. Could you estimate approximately what air conditioning [2295] load you had? A. If I had to estimate, I would guess not over a hundred air conditioning installations in the division.

XQ. When you say air conditioning, is that a centralized location or is the air conditioning a plant to air condition the whole house? A. Yes. Unfortunately the gas air conditioning has to be a central air conditioning unit that provides air conditioning for the whole house.

XQ. What efforts have been made by the NEES gas companies to initiate or expand their air conditioning load? A. Last year we put in a summer air conditioning rate, and we feel it is a—in fact we know it is a saving factor and we will develop some air conditioning load and we expect to develop a substantial amount henceforth.

XQ. Can you briefly describe the competitive situation in the New England area as between electric air conditioning, air conditioning by electricity and by gas? A. Unfortunately for the gas companies, there isn't much competition

as between the electric companies and the gas companies. At the present time the original installation of a gas air conditioning unit, and I am talking now of a central unit, is substantially in excess of the cost of a comparable electric unit. On the other hand, we feel that with our new promotional rate of eighty cents for air conditioning, the [2296] cost of operation of a gas air conditioning unit will be less than with electric.

XQ. Have you made any extra effort to encourage your salesmen to press for the sale of air conditioning units? A. Oh, yes, sir. I think, as I previously described, our salesmen work on a salary and a bonus basis; our commercial salesmen work on a basis of a base salary and bonus for added revenue and the more revenue they add the more money they earn. Air conditioning is a good source of added revenue for them and they are working to develop air conditioning to the extent that they can.

XQ. Are you familiar with a centralization air conditioning project located in downtown Hartford and undertaken by Hartford Gas Company? A. I have heard of it.

Mr. Nowlin: May we go off the record a moment?

Hearing Examiner: Yes.

(Discussion off the record.)

Hearing Examiner: Back on the record.

By Mr. Nowlin:

XQ. Page 851, Mr. Dalbeck, of the transcript you mention a new gas refrigerator recently developed by RCA Whirlpool and another one by Norge. A. Yes.

XQ. Are any of these refrigerators on display in the [2297] NEES stores? A. We are selling them.

XQ. How much was spent in 1958 and 1959 and 1960 by the NEES gas companies for advertising on a per customer basis? A. The figure that I have for advertising expense for domestic customers includes all advertising, including advertising charged to new business expense and adver-

tising charged against merchandise and jobbing revenue. The amount for the gas division, including Lynn, in 1960 was \$1.48. The amount in 1959, excluding Lynn, was \$1.35.

XQ. At that point, do you know how much the 1960 is attributable to Lynn alone? A. Well, actually if we eliminated Lynn advertising expense per customer, which was the lowest in the gas division, of \$1.02 per customer, the average of \$1.48 would increase and I don't know what the figure would be. In 1958 the advertising expense per domestic customer and excluding Lynn was \$1.08.

XQ. Are any of these advertising expenditures, Mr. Dalbeck, identifiable as such in the company's return to the Department of Public Utilities of Massachusetts? A. Yes.

XQ. Do you know on what accounts? A. Accounts 664, advertising, and 560, merchandise and jobbing revenue. You have to go to two places to find [2298] out.

Excuse me, I might add that those accounts that were in effect in 1960 and prior years, there has been a new classification of accounts issued effective January 1, 1961 and I am not familiar with the numbers on those accounts.

XQ. If you look, Mr. Dalbeck, at these two accounts, number 664 and 560, for 1958, could we arrive at the per customer figure of \$1.28 which you just gave us? A. If you have the reports to the DPU.

XQ. Do you know how much was spent for advertising on a per customer basis by the five NEES electric companies which operate jointly with the gas companies? A. No, sir.

XQ. How do you determine what expenditures will be made for advertising in any given year? A. Well, the first thing we do is to sit down with our agency and the account executive of that agency. He contacts each one of the vice presidents and presidents and managers of the several division companies who, with the merchandising manager, works out what they think their advertising budget should be for the ensuing year. Those are then reviewed with the

promotional sales manager, ultimately with myself, and on the basis of our judgment as to what should be done in the companies in the following year, then we set our advertising budget accordingly.

[2299] XQ. And that advertising budget is submitted to the Boston office? A. No, sir.

XQ. Do you have the sole discretion as to the amount of expenditures that will be made for advertising? A. I have always assumed I had, yes, sir. I never discussed the advertising budget with anybody in Boston.

XQ. Has anybody in Boston ever discussed it with you? A. No, sir.

[2300] By Mr. Nowlin:

XQ. Is this advertising budget a part of your operating budget, Mr. Dalbeck? A. Well, the amount of the advertising budget ultimately finds its way into the operating budget, so in that respect it becomes a part of the operating budget, but it is prepared and determined independently and prior to the preparation of the operating budget.

XQ. Now, your operating budget is subject to the approval of the officials in Boston, isn't it? A. Oh, I guess it is approved by them, but actually we prepare our own operating budget and send it into the Boston office, and it is accepted.

XQ. But if they thought you were spending too much money, they would probably object to it? A. They probably would, but they haven't.

XQ. Are any of the advertising and sales promotional activities conducted on a joint basis for the electric and gas companies? A. No, sir.

XQ. Do the NEES companies insert any advertising material into the envelopes containing customer bills? A. Where customer bills are mailed in envelopes we do have bill enclosures advertising special campaigns during the year, yes.

[2301] XQ. Well, now, in the case of the joint bill, gas and electric, do you include advertising material for the electric and the gas? A. Well, there are no joint bills.

XQ. Don't you have any joint billing in the NEES System of electric and gas services? A. No, because they are separate companies. Each company is a separate company, and each company sends out its own bill.

XQ. I was operating under the erroneous illusion that in a few instances you did have joint billing, but I guess I am wrong.

XQ. Isn't there testimony in the record, Mr. Dalbeck, to the effect that in some instances a customer receives only one bill for electric and gas service? A. The only place where a customer received one bill for electric and gas accounts was in the Lynn Gas and Electric Company prior to January 1, 1960. It was a combination company.

XQ. Is there any advertising done by the use of cards on trucks owned by the NEES companies? A. There is advertising done on the gas company trucks of the NEES companies, yes.

XQ. Whose advertising is that for? A. The gas company.

XQ. You mean there is no electric advertising carried on [2302] the gas company trucks? A. No, sir, there is not.

XQ. How about jointly operated trucks? A. There are no jointly operated trucks.

XQ. On page 849 you testified that the house heating saturation for the NEES gas companies combined was 17.3 percent; do you recall that? A. Yes, I think so.

XQ. As of what date is this figure? A. I think that was the year 1959.

XQ. Now, could you give it to us for 1958 and 1960? A. Well, the figures that I have here will vary somewhat from the figures that I quoted on page 849 because the 17.3 percent did not include Lynn. The figures that are appli-

cable to 1958, including Lynn, was 14 percent. In 1959 that 17.3 figure, including Lynn, drops to 16.5 percent; and for 1960 the figure is 18.6 percent.

XQ. Now, could you give us the same percentages for the eight NEES companies separately? A. Yes, sir. For all years?

XQ. Yes, please. A. Mystic Valley Gas Company, 1958 of 11.8 percent; 1959 14 percent; 1960 15.9 percent.

Lynn, 1958 10.3 percent; 1959 12.5 percent; 1960 14.1 percent.

[2303] North Shore, 10.5 percent for 1958. 1959 12.6 percent. For 1960 14.7 percent.

Lawrence, 1958 25.6 percent; 1959 29.3 percent; 1960 32.4 percent.

Central, 23.6 percent for 1958; 27 percent in 1959; 29.3 percent in 1960.

Wachusett, 10.5 percent in 1958; 12.5 percent in 1959; 14.6 percent in 1960.

Northampton, 16.8 percent in 1958; 20.8 percent in 1959; and 22.6 percent in 1960.

Norwood, 18.4 percent in 1958; 21.8 percent in 1959; and 25.8 percent in 1960.

XQ. Are those year end figures? A. Yes, those are based on customers at the year end.

XQ. Do you know what the house heating saturation figures are for each of the non-affiliated Massachusetts gas companies shown on Respondent's Exhibit 90? A. No, sir. That is almost impossible to determine on a comparative basis.

XQ. Why is it impossible to compare the saturation point of the NEES companies with the other Massachusetts companies reflected on Exhibit 90? A. Because we all don't measure house heating customers or consider house heating customers on the same basis. Insofar as the NEES Gas Division companies are concerned, we classify a [2304]

house heating customer as one who is on the L rate, or so-called house heating rate, and who uses gas solely for heating his home. Some companies, not only in New England but in other areas, consider as a heating customer, which is interpreted as a house heating customer, all customers who use gas for heating whether it be their sole use of heat or whether it be a kitchen range burner or a room gas heater.

XQ. Doesn't the system of accounts of the Department of Public Utilities in Massachusetts require a report on the same basis? A. The system of accounts doesn't require a breakdown of house heating customers. I think I can amplify that by quoting from the annual report of the New England Gas and Electric System in which they speak of their heating customers, and I will just quote: They say: "At the end of 1960 the system had 82,600 domestic heating customers, an increase of 4300 over 1959. This represented a 51 percent saturation of domestic customers, twenty percent of whom utilized central heating plants and thirty-one percent used one form or another of individual room heaters." And this is the closest that I have been able to come to making a reasonable comparison with some of the other companies where they say that twenty percent of their customers are central heating users, and I would say that generally would compare with our figures.

XQ. Now, what is the saturation of the NEES Gas Company for [2305] gas water heaters? A. I have no figures available on that, but I would say the saturation would be extremely high.

XQ. Could you give us a rough estimate? A. I would say between sixty and seventy-five percent.

XQ. Do you know what the comparable saturation figures are for the non-affiliated companies shown on Exhibit 90? A. No, sir.

XQ. There wouldn't be any differential in the reporting

of gas water heaters by the non-affiliates than with that used by the NEES company, would there? A. There is no way that you can determine from any records that I have ever seen as to saturation of water heating. There have been surveys that have been made at various times, but these are one shot affairs that aren't of a continuing nature.

XQ. Do you know what the saturation is for gas ranges in the NEES gas companies? A. Here again this would have to be a pretty wide estimate, but I would guess between 80 and 90 percent.

XQ. What is the saturation of electric ranges for the electric companies conducting joint operations with the gas companies? A. I don't know. I have tried to find out, but I don't know.

[2306] Mr. Nowlin: Off the record.

(Discussion off the record)

By Mr. Nowlin:

XQ. On the record.

Do you know generally, Mr. Dalbeck, whether the saturation for electric ranges for these electric companies is high or low or medium compared with the gas?

Mr. Dunn: Would you read the question?

(Question read.)

By Mr. Nowlin:

XQ. I will restate the question.

Do you know in general, Mr. Dalbeck, whether the saturation for the electric ranges for the electric companies conducting joint operations with the gas companies is higher or lower than that for the gas? A. I don't know.

XQ. Do you know the number of customers in the area served by the gas companies that have electric ranges? A. No, sir.

Mr. Nowlin: May we have a five-minute recess?

Hearing Examiner: We will have a short recess.

(Whereupon, a short recess was taken.)

By Mr. Nowlin:

XQ. Mr. Dalbeck, could you obtain and supply for the record computations similar to the rates of return that are [2307] reflected on Exhibit No. 114 for the following companies: The Berkshire Gas Company, Brockton-Taunton Gas Company, Fall River Gas Company, Haverhill Gas Company, Lowell Gas Company, Springfield Gas Company, and Worcester Gas Light Company? A. I am sure we can.

XQ. That is for 1958 and 1959. A. Yes, sir.

Mr. Quarles: We will undertake to provide that as an exhibit, and I would suggest that a number be reserved for it, the next number in order.

Hearing Examiner: Very well, let Respondent's Exhibit 117 be reserved for that exhibit, and when it is received and filed with the Docket Section it will become part of this record.

(Respondent's Exhibit No. 117 was reserved.)

By Mr. Nowlin:

XQ. Since your last testimony, Mr. Dalbeck, has there been any change in the emergency contract arrangements between Mystic and Algonquin? A. No, sir.

XQ. Now, in connection with Tennessee's rate increase of April 5, 1960, did the NEES gas companies receive an off-setting increase? [2308] A. Yes, sir.

XQ. Page 813 of the transcript you refer to studies of load growth for a twenty-year period. What twenty-year period does this study cover? A. Those twenty year periods cover the time from the date that the load growth survey is initiated for the ensuing twenty years.

XQ. Is that prepared each year? A. No, sir. It is prepared at one time, but is reviewed periodically to see that the conditions haven't changed sufficiently to change the content of the survey.

XQ. Now, when was that survey made? A. This survey has been made for most of our companies within the last two years and is continuing. It has not been completed for all companies in all areas.

XQ. Do you know whether or not that survey coincides with the five-year survey that you make each year for the Federal Power Commission? A. No. As a matter of fact, this survey is predicated on this five-year survey that we make for Tennessee, and it is there for purposes of estimating load growth and for determining future construction in particular areas.

XQ. Could you supply for the record a copy of that survey and also a survey of the five-year projection for the Federal Power Commission?

[2309] Mr. Quarles: Mr. Examiner, we have several times requested that these requests for additional information be addressed to counsel, and have thought that it would be helpful if they could be discussed with us. We want to be just as helpful as we can in providing the material, but at this late date in the proceedings being asked for more and more material begins to be a little troublesome. I am not at all sure what is involved in this, and it would be much easier for us if we could know what it is in addition that the staff wants and work with them on a specific statement of the request and the form in which it can be supplied.

The Witness: As a matter of fact, these twenty-year surveys are not reduced to writing or report form. These are work papers that the engineers use in determining what their construction will be in ensuing years, so that they are not in the form of reports that are directed to me, for instance.

By Mr. Nowlin:

XQ. Well, now, aren't the reports that you submit for

the Federal Power Commission in written form? A. Yes, those are.

Mr. Nowlin: Well, I will inquire of counsel if he will supply us a copy for the record of these five-year estimates submitted to the pipeline suppliers for the years 1958, 1959 and 1960.

Mr. Quarles: Yes, we will be glad to supply them.  
[2310] By Mr. Nowlin:

XQ. Now, at page 830 of the transcript you referred to competition between the electric and gas to equip a large housing project at Everett. Do you recall your testimony? A. Yes, sir.

XQ. In this connection you state that the electric staff assisted by NEPSCO held a meeting with the housing authority, and that the gas company heard of this, and they sent their own man. A. Yes, sir.

XQ. Now, why was the electric company in on this ahead of the gas? A. They weren't. We were aware of it, and we were working against the electric company on the project, and my reference was to a semi-final meeting of the housing authority, at which time they were to decide what was going in. We were under the impression that the job was going gas until we found that through ulterior means that the electric was in there on top of us when we thought the job was sold, and then we went back to work on it, but we were both in there working against each other on this particular housing project.

XQ. Reading your testimony certainly leads one to believe that the electric people in the service company were in there first. I direct your attention to this part of the statement: "The electric company spent considerable time and staff efforts [2311] in convincing this housing authority that an all-electric project was the thing to have, including electrically heated apartments. A meeting was held between the housing authority and several of the personnel

in the electric company power sales staff, and they were assisted by NEPSCO, the electric sales staff. Learning this, the gas company formulated a sales approach to counteract the electric company's sales efforts." Wouldn't that indicate to you the electric company was in there ahead of anybody else? A. Let me assure you from day to day we were in there against the electric company for that job since its inception.

XQ. Did the service company assist the gas companies in that project? A. The service company, the electric sales department, has nothing to do with the gas division. We perform our own promotional and sales activities from the gas division office.

XQ. Well, now, are there any instances of this kind in which the electric won over the gas? A. Yes, sir.

XQ. Do you know on the average which one has come out ahead? A. We have.

XQ. Pages 1585 and 1586 of the transcript you estimated that— A. 1585?

[2312] XQ. 1585 to 1586. —you estimated that the rate of return on invested capital for the combined gas companies would decrease from 6.25 percent to 5 percent because of the loss of peak shaving gas, is that correct? A. I did say apparently five percent. It should have been 5.5, as a matter of fact.

XQ. I was going to ask you what was your actual rate of return for the gas company for 1960? A. On net plant and working capital, 5.56.

XQ. What was the cost of purchased gas per MCF for 1960 and in 1959? A. On a division basis, I haven't got that figure, sir.

XQ. What do you mean by division basis, Mr. Dalbeck? A. For the Gas Division companies as a whole, or as a matter of fact, for any individual company. I just don't have it here.

XQ. Is the 5.66 rate of return which you have just mentioned comparable to the 6.4 percent in 1959 and the 6.6 percent in 1958 reflected on Exhibit 114? A. May I have that question again, please?

(Question read)

A. Yes, sir.

XQ. Now, at page 861 of the transcript you stated that MCF sales in New England increased 132 percent from 1952 to 1959. Do you find that? [2313] A. Yes, sir.

XQ. Doesn't this computation include New England gas companies which in that period were not on a straight natural gas basis? A. Yes.

XQ. Assuming that the non-straight natural gas companies were excluded from the computation, wouldn't that figure of 132 percent be larger? A. Not necessarily because some of the gas companies that weren't on natural gas were increasing their loads correspondingly.

XQ. Well, isn't it true, Mr. Dalbeck, that companies like Boston Gas, which sells lower b.t.u. gas than straight natural gas would not have the same growth? A. No, that doesn't follow at all because the Boston Gas Company was promoting and aggressively selling gas, just as all other gas companies in New England were, whether it was natural gas or manufactured gas, their rates were on a comparable basis, and they were in the same position to sell gas as were the other companies that did have straight natural gas. As a matter of fact, during this period they did have customers who were on straight natural gas and other customers were buying a mixed gas.

XQ. Well, is it feasible for a company serving five or six hundred b.t.u. gas to sell gas for house heating? A. If their rates were on the level that would allow them [2314] to compete, and Boston Gas rates were.

XQ. Do you have any instances in the NEES system before the advent of natural gas where you had house heating

load from manufactured gas? A. We had some house heating load, yes.

XQ. That is rather unusual, though, isn't it? A. Well, let me say it was substantially less than it is today, but there was house heating load.

XQ. Well, isn't it a fact, Mr. Dalbeck, that the house heating in New England got its primary emphasis by the initiation of natural gas service? A. That was true in the majority of gas companies. It was not true in all of them.

XQ. Do you know whether that was true in Boston Gas? A. I know that Boston Gas has been aggressively selling house heating for many, many years.

XQ. Do you know whether they are having comparable results with those selling straight natural gas? A. Considering the area that Boston Gas Company operates in, I would say that they are having excellent results from selling mixed gas. Let's understand that they are not selling a five-sixty b.t.u. gas. They are selling an 800 b.t.u. gas, which for all practical purposes is the equivalent of natural gas, particularly when they convert their rates to a therm basis, which puts it on an exactly comparable basis with our own [2315] rates under natural gas.

Now, Boston Gas in its outlying area, where they are getting growth, are doing a tremendous job of selling house heating. Where Boston Gas looks poor in their overall sales per customer is the fact that the great city of Boston is not good gas territory because there is no building going on there, and they are losing population.

XQ. Well, now, how do you account for the growth in the Norwood area as compared with the other NEES companies? A. I think that is apparent when you look at the increase in population in the town of Norwood as compared with any of the other NEES companies, or as a matter of fact, most of the other cities and towns in Massachusetts. Norwood experienced a 49 or 50 percent increase in popu-

lation from 1960 over 1950. That population explosion in Norwood meant a tremendous amount of new home building, and we as aggressively promoted gas in Norwood as we have in all of our territory, but we did have the advantage of having a new home market to sell in, which we didn't have comparatively in our other gas companies.

XQ. Are there no other comparable areas in the State of Massachusetts to that of Norwood? A. There are communities in Massachusetts that are comparable with Norwood, but they would be a part of a larger company.

XQ. Are there no communities in the NEES areas comparable [2316] to Norwood? A. Well, the one that I can think of at the moment that I would expect would be comparable to Norwood would be the town of Burlington, which had the same kind of a population explosion in that community.

XQ. What company serves Burlington? A. Mystic Valley Gas Company.

XQ. Have the gas sales increased as rapidly in Burlington as they have in Norwood? A. Yes, sir. I might say for the record that Norwood has the highest saturation—I beg your pardon—Burlington has the highest saturation of house heating of any city or town that we serve, and their saturation on house heating is about 42 percent of the gas customers use gas for heating. This is Burlington.

Mr. Nowlin: Mr. Examiner, I suggest we take a recess for a few moments. I think we are nearing the end, and I would like to check.

Hearing Examiner: All right. We will suspend here until you want to resume.

(Whereupon, a short recess was taken.)

Mr. Nowlin: Mr. Examiner, I would like to request of counsel for the respondents to stipulate with me that in the course of the staff's preparation or counsel for respondent's preparation of any briefs or proposed findings in this

proceeding [2317] that we may refer to and use portions of the material reflected in the Commission's Docket No. 72-8, those particular portions being the annual returns of the eight gas subsidiaries of NEES to the Department of Public Utilities of the State of Massachusetts, it being my idea that if we were to use some portions of these reports they could be specified in the proposed findings or brief, and in the event of an appellate record we would only have to certify those particular sheets that were used rather than to include the entire docket.

Mr. Quarles: That is satisfactory to us, and we will so stipulate.

Hearing Examiner: Let that stipulation be entered of record and followed.

Mr. Nowlin: Now, Mr. Examiner, I should also like to request a similar stipulation from counsel that both of us may use the U-5-S annual supplements filed for the New England Electric System with this Commission, again with a view that if any portions of those documents are used we could extract the particular portions that might be pertinent, and that the stipulation would extend for the U-5-S for 1958, 1959 and 1960.

Mr. Quarles: That is also agreeable, and we will stipulate to that effect.

Hearing Examiner: Let that stipulation be entered of record and followed.

Mr. Nowlin: Mr. Examiner, I think that is all we have [2318] at the present time.

Hearing Examiner: Off the record.

(Discussion off the record)

Hearing Examiner: On the record.

Mr. Quarles: In view of the time that has elapsed in the course of these hearings and the length and complexity of the record, we would like a reasonably brief period to review the record and determine whether it is necessary to

add anything by way of redirect examination or to ask Mr. Gishman any questions or otherwise to supplement the record before it is closed. I have discussed this with Mr. Nowlin, and we have agreed, if satisfactory to you, to May 17th as a proper time for what we would hope to be a final clean-up, at which we could dispose of any remaining matters, could determine post-hearing procedures, and could close the record.

Hearing Examiner: Gentlemen, I think that request is reasonable, and the hearing will now stand in recess until 10:00 a.m., May 17, 1961.

(Whereupon, at 4:50 o'clock, p.m., the hearing recessed until 10:00 o'clock, a.m., May 17, 1961.)

[2320]

#### PROCEEDINGS

Hearing Examiner: The hearing in this proceeding will now be resumed.

Mr. Quarles: Mr. Hearing Examiner, it seems appropriate at the outset of the hearing today to introduce into the record certain material requested by the staff during the course of their cross examination of the respondent's witnesses on April 24, 1961. This material was submitted last week to the staff of the Commission for their examination.

The first item is in response to the staff's request at page 2207 of the transcript for investments by NEES in its eight Massachusetts gas subsidiaries during the past five years. In response to that request we offer as an exhibit a sheet entitled "New England Electric System-Investments in Eight Massachusetts Gas Subsidiaries, during Five Year Period, 1956-1960."

I suggest that this sheet be admitted as Respondent's Exhibit 118.

Mr. Nowlin: No objection.

Hearing Examiner: The exhibit is so admitted in evidence.

(Respondent's Exhibit No. 118 was received in evidence.)

Mr. Quarles: The next item is in response to the staff's request at page 2236 of the transcript for the rate of [2321] return of the five electric companies in the NEES System, which conduct joint operations with the gas companies in the System.

In response to this request, we offer as an exhibit a single sheet entitled "New England Electric System-Five Electric Companies Rate of Return Data." The information shown thereon is for the years 1958 and 1959.

I offer this sheet as Respondent's Exhibit 119.

Mr. Nowlin: No objection.

Hearing Examiner: The exhibit is admitted as Respondent's Exhibit 119.

(Respondent's Exhibit No. 119 was received in evidence.)

Mr. Quarles: The next item is pursuant to the request of the staff at page 2306 and 2307 of the transcript for rates of return of certain Massachusetts gas companies non-affiliated with the New England Electric System.

In response to this request we offer a single sheet entitled "Non-Affiliated Massachusetts Gas Companies' Rate of Return Data." The information shown on this sheet is again for 1958 and 1959.

At page 2307 of the transcript as exhibit number was reserved for this information, namely, Respondent's Exhibit 117. Accordingly, I offer this sheet as Respondent's Exhibit 117.

Hearing Examiner: This present exhibit is admitted as [2322] Respondent's Exhibit No. 117.

(Respondent's Exhibit No. 117 was admitted in evidence.)

Mr. Quarles: Pursuant to a request of the Commission's staff at page 2308 and 2309 of the transcript for the five year estimates submitted by the gas companies to their pipeline suppliers in the years 1958, 1959 and 1960, we offer an exhibit consisting of an explanatory statement and 33 pages of schedules. The first eleven pages of the schedules are the estimates submitted by the eight gas companies of the New England Electric System to their pipeline suppliers in 1958. The second eleven pages are the estimates supplied in 1959 and the third eleven pages are the estimates supplied in 1960. The reason that there are eleven sheets for each year is that three of the eight gas companies have two divisions, and in those three companies separate estimates of gas requirements for each division are prepared and submitted.

I offer this exhibit as Respondent's Exhibit 120.

Hearing Examiner: I hear no objection, and the exhibit is admitted in evidence as Respondent's Exhibit 120.

(Respondent's Exhibit No. 120 was received in evidence.)

Mr. Quarles: In addition, we have three sheets which give the 1960 population figures for each of the towns served by the seven non-affiliated gas companies in Massachusetts which [2323] were considered by the staff of the Commission in connection with their Exhibit No. 4 to be comparable to the NEES gas companies. This is a compilation of the population figures taken from the 1960 census, and at the end of it there is a note giving the population growth between the 1950 census and the 1960 census.

Since these population figures for the non-affiliated companies correspond with similar figures for the NEES gas companies contained in Exhibit 113, I offer these three sheets as Respondent's Exhibit 113-A.

Hearing Examiner: Let the exhibit come in as Respondent's Exhibit 113-A.

(Respondent's Exhibit No. 113-A was admitted in evidence.)

Mr. Quarles: Finally, in our examination of the transcript of the cross examination held on April 5, 6, 7, 10, and 24, 1961, we found some errors which seem to be sufficiently material to warrant correction of the record. We have prepared a memorandum of these proposed corrections and have submitted it to counsel for the Commission and we understand that he is in agreement. Accordingly, we now move that the record be corrected as set forth in this memorandum, and suggest that the memorandum be received in evidence as Respondent's Exhibit 121.

Mr. Nowlin: No objection.

Hearing Examiner: This memorandum of revisions and [2324] corrections is admitted as Respondent's Exhibit 121, and the record will be corrected in accordance therewith.

Mr. Quarles: Now, I would like to call Mr. Gishman.

Whereupon,

SAMUEL GISHMAN

was called as a witness, having been previously duly sworn, was examined and testified as follows:

*Cross Examination (Continued)*

By Mr. Quarles:

XQ. Am I correct in understanding that you personally took the basic figures for Division's Exhibit 4-A from the annual returns of the several companies on file with the Massachusetts Department of Utilities in Boston? A. I took these figures in cooperation with Mr. Ware, another member of our staff. We worked on them simultaneous,

and I could not identify particular figures taken off by him or taken off by me.

XQ. But you and he worked together in taking them from the returns? A. That is right.

XQ. Incidentally when was that? A. This was back in April, I think. Can I confer a minute with Mr. Ware?

XQ. Certainly.

Hearing Examiner: Off the record.

[2325] (Discussion off the record)

Hearing Examiner: On the record.

The Witness: My recollection is it was in April 1961, but I can verify that for the record.

Mr. Quarles: It is not necessary to come closer than that.

By Mr. Quarles:

XQ. Were you interested solely in the information shown on this exhibit, or did you examine the returns generally? A. Mr. Ware and I looked at other items in those reports and compiled figures of various types from those reports, but these are the only ones that we have included in these exhibits.

XQ. You did make some other comparison though between the two groups of companies? A. No, we didn't make any comparisons, I wouldn't say. When were up at the DPU, we went through the reports and took various figures of various types of items out of those reports, not at that time having in mind any particular comparisons that we might later want to make. We just wanted to have the information available to us for study.

XQ. And then from the figures that you took that way you later selected this material for the purpose of an exhibit? A. That is correct.

XQ. Now, for what purpose in this case is this exhibit useful?

[2326] Mr. Nowlin: Mr. Examiner, I am going to object

to that. The exhibits speak for themselves, and the purpose that they may be used for in a brief I don't think has relevance to the exhibits at this time.

Mr. Quarles: The thing that I am interested in is exploring the relevance of the exhibit, and I was inquiring of the witness who made the selection of the material as to what it was designed to demonstrate, or why it was relevant and admissible.

Hearing Examiner: What exhibit does this line of examination concern?

Mr. Quarles: Exhibits 3 and 4, which were put together and were used for comparison purposes, Division's Exhibits 3 and 4.

Hearing Examiner: Well, have you anything further to say, Mr. Nowlin?

Mr. Nowlin: Yes, sir. I think maybe the exhibits are already into evidence, and what purpose this would be used for would be disclosed in a brief if they are used.

Hearing Examiner: Well, I would disagree with you on that. It seems to me that Mr. Quarles has the right to cross examine the witness, and he may want to make some motion to strike these exhibits. I overrule the objection. I think he has a right to cross examine on this material.

Mr. Nowlin: Exception.

[2327] The Witness: The purpose of these exhibits was to try and get some insight as to the results of sales to customers by the NEES gas companies on the one hand and a group of independent Massachusetts gas companies on the other.

By Mr. Quarles:

XQ. Well, now, referring to Division Exhibits 3 and 4, could you tell us the meaning of the term domestic customers as used in 3-A and B and in 4-C and D? A. Domestic customers would be customers other than commercial and industrial and sales to other utilities.

XQ. And would domestic sales mean merely sales to domestic customers? A. That is right.

XQ. Is this a classification that is based on use or on the type of customer, or is it a rate classification? A. Well, it would be a combination of both. The Respondent's Exhibit 58-A sets forth for each of the NEES gas companies tabulations which give the number of customers for each company, and those tabulations are divided up into domestic, commercial and industrial, as I recall. We attempted to follow that same type of classification in getting up those figures.

XQ. Does the classification of accounting in Massachusetts allow differences in practice in what is reported under these several categories? [2328] A. We took the figures off the Department of Public Utilities reports, as they were labeled in those reports. Those reports, as I recall, referred to domestic customers, industrial customers, and other types of customers, and we attempted to follow just those lines.

For example, on Division's Exhibit 4-A, which is total sales—well, since we are talking about domestic customers, let me amend that statement. Let me start all over again. Division's Exhibit 4-C, which shows domestic gas sales revenues and customers for nine natural gas companies of Massachusetts, the figures for domestic gas sales and domestic operating revenues were taken from the DPU report for 1958 for each of those companies as shown on page 302, line 47, of those DPU reports.

XQ. So that you accepted the labels as they appeared there without undertaking to determine whether those terms meant the same thing to different companies? A. We took those labels as they appear there. I might add that as I recollect we compared some of the domestic customer figures appearing in Respondent's Exhibit 59-A, for the year 1958, with information shown in the DPU reports

for those same companies to see whether the figures were approximately the same or matched. I believe we found they did match.

XQ. I gather that you did not make a corresponding check with respect to the other Massachusetts companies? A. Well, if you are speaking of number of domestic [2329] customers with respect to the independent companies, Mr. Quarles, the number of customers shown for every one of these domestic companies on our exhibits were taken off Respondent's Exhibit 90, where you mention those independent gas companies and you give the number of their customers. Now, I don't recall whether you give the number of domestic customers.

XQ. I was more concerned with the MCF figures than with the number of customers in this particular inquiry.

Well, do you know whether the non-affiliated companies listed on 4-C and 4-D, other than Boston and Buzzards Bay, report domestic sales on the same basis as the NEES gas companies do? A. I do not know, no, sir. I assume that they did, but I do not know what differences, if any, there are.

XQ. So that you would not know whether the seven non-affiliated companies to which we have been referring followed the practice of the seven NEES companies on reporting as domestic sales only sales made for domestic use? A. I don't know those details, no, sir.

XQ. I think you referred a moment ago to the fact that the figures for 1958 appearing in Column B of Division's Exhibit 4-C were taken from line 47 on page 302. Would you look particularly, for example, at the figure for the Haverhill Gas Company? A. Yes, sir.

XQ. Is it not true that the Haverhill report shows on line [2330] 47 for domestic amount that year only 237,282, and that under space heating they show 1,120,470, and that the figure of 1,357,600, which you show for Haverhill is the

sum of those two? A. I believe that would be the sum of those two.

XQ. So that in that case the figure shown for domestic is a combination of the figures reported for domestic and for space heating? A. Could we go off the record a minute?

Hearing Examiner: Off the record.

(Discussion off the record)

The Witness: On the record.

I have here, Mr. Quarles, a worksheet which corresponds to that figure of 1,357,600 MCF shown on Division's Exhibit 4-C, and what you say is perfectly correct. Our work sheets show that domestic sales that were reported to the DPU as 237,200 MCF and there was a separate entry there in that report for space heating which we added to the domestic figure.

XQ. Does not Haverhill's space heating include commercial and industrial use? A. Well, I couldn't tell from the DPU report whether it does or not.

XQ. Did you examine their statement of schedule in the back of their report which shows this? A. A schedule which explains space heating?

[2331] XQ. Yes, sir. A. I don't recall having seen that, no, sir.

XQ. Well, in any event, does it not appear that Haverhill's domestic sales as we have them here do include sales for industrial and commercial use? A. In respect of space heating you mean?

XQ. Yes. A. I would assume that if they sell space heating gas for commercial and industrial use that that is included in this figure of 1,120,000 MCF for space heating.

XQ. Well, now, in the light of that, is it useful to compare the NEES domestic sales and revenues as reported with these composite figures of the other companies that include not only domestic sales, but sales for other uses as well?

A. Well, now, I don't know at this moment from my memory, Mr. Quarles, whether or not the space heating sales shown—strike that.

I will answer that question this way: If the NEES gas companies' space heating sales include only space heating to domestic customers, then I will agree that in comparing NEES' space heating sales with the space heating sales of Haverhill that they are to some extent not comparable. To what extent I do not know.

XQ. We were talking not about NEES' space heating, but about these NEES domestic sales, and I was inquiring as to a [2332] comparison of the NEES domestic sales, which are limited to domestic customers, with what is shown on this Exhibit 4-C as domestic gas sales of the other companies, but includes obviously space heating that is not domestic. A. To the extent that there is that difference I would say that the comparability would not be on all fours.

XQ. Thank you.

Turning now to another matter, why did you exclude the Boston Gas Company from your computations in these exhibits? A. We excluded Boston Gas Company for the reason that it was selling mixed gas to a greater or lesser degree from 1952 or 1953 when natural gas came in, was selling mixed gas up to, as we understand it, 1960. The btu content, as I recall, kept increasing from year to year during those intervening years, but that they were on a mixed gas basis, and for that reason we thought that it was probably not comparable with these other companies that were on a straight natural gas basis.

XQ. Do you happen to know what the btu content was in 1958 for your comparison here? A. I think I can get that figure. What year were you inquiring about, Mr. Quarles?

XQ. 1958. A. In 1958, according to my figures here, the btu content of the mixed gas was 800 btu.

XQ. And did you investigate as to the extent to which they [2333] had adjusted their rates and billing procedures to put customers in the same position as if they were being furnished 100 percent natural gas? A. No, sir.

XQ. Did you examine any other factors having a bearing on the sales opportunities and potential of the Boston Gas Company? A. No, sir, we had no other information at our disposal.

XQ. And so can I fairly assume that it was excluded because of the uncertainty as to the relationship of the gas they were selling or the comparability of the gas they were selling to natural gas? A. There was that uncertainty, that is right.

XQ. That was the only reason for excluding? A. Yes, sir.

XQ. Well, now, would you care to express an opinion as to the extent to which variations in the figures between Exhibits 3 and 4 result in differences in the territory served with respect to such factors as population growth, new housing, number, type and size of industrial and commercial users and similar factors? A. Not being a gas expert I don't think I could express an opinion that would be worth much.

XQ. Are you enough of a gas expert to have an opinion as to whether those factors are important in judging the performance [2334] of a company? A. As a layman I would say they probably have some bearing.

XQ. Would you think that comparisons that took no account of these factors would be particularly significant? A. I think comparisons which compare groups of companies like these are, you would have eight NEES companies and we have seven of the independent gas companies, would have more value for comparative purposes than

would two individual companies. I believe that differences would tend to be ironed out in looking at these two groups of companies as groups.

XQ. Before reaching any conclusion on it, would it not be necessary to examine the other factors? A. I would say it would be desirable to do so, yes, sir.

XQ. Looking now at Exhibit 4, how would you account for the wide range in MCF per customer among the companies? First looking at 4-A relating to total sales, where the range, for example, is from Brockton-Taunton with 48.6 as compared with Lowell at 101.3, and others showing comparable variations. A. The reasons for these variations I am not acquainted with.

XQ. And I suppose the answer would be the same if we look at the comparable figures on Exhibit 4-C, where the range, leaving Boston out for the moment, range runs from 37.0 Brockton up to 70.9 for Haverhill. A. The answer will be the same.

[2335] XQ. Are you aware of the fact that the Brockton-Taunton and the Springfield Gas Light Companies showing quite a wide range are under common management? A. I think that I was aware of that fact. I don't know just how the commonality of the management takes place there.

XQ. Did you make any other comparisons of these two groups of companies on the basis of the data that was included in the reports to the Massachusetts Department of Public Utilities, the insurance cost per customer, for example? A. I don't recall that we made any other direct comparisons of this kind, Mr. Quarles.

XQ. In examining the figures on total sales and revenues shown on Exhibits 3-C and D, and 4-A and B, did you consider the extent to which these figures reflected interruptible sales? A. I am informed that the total gas sales shown on these exhibits do include interruptible sales where reported.

XQ. But you did not attempt to determine to what extent these figures represented interruptible sales? A. Yes, in each one of these cases we do have a figure for interruptible sales, which while they don't show up separately, of course, in these exhibits, do show up on our work papers.

[2336] XQ. And did you inquire as to the presence of very large industrial customers in the respective companies? A. We have the figures for sales to industrial customers.

XQ. Well, now, would the percentage of the total which is represented by interruptible sales at prices only slightly above actual cost be significant in evaluating your company's MCF per customer record? A. Yes, they would.

XQ. But your exhibit does not show it? A. It does not.

Mr. Quarles: I have no further questions, Mr. Gishman.

Hearing Examiner: You may retire from the stand, Mr. Gishman.

(Witness excused.)

[2337] Mr. Quarles: Mr. Examiner, our presentation of evidence is complete and I understand that the staff has nothing further to offer, so apparently the time has come for the closing of the record.

With respect to the post hearing procedures, before stating our position perhaps a brief word of explanation is in order. We have here a case for which there is no controlling precedent or even particularly helpful analogy in the previous decisions of the Commission or the courts.

Of course every case under Section 11(b) of the Holding Company Act has some distinguishing characteristics and each must be decided on its own facts. But the differences are frequently superficial, or mere differences of degree. The factors which distinguish the instant case are fundamental. They go to the very heart of the matter. On its facts I think we can fairly say this case is in a different

category from any the Commission has previously been called upon to consider.

In the first place, the situation of the gas industry in New England is unique. Our area is further away from the source of supply of natural gas, with the result that the cost at city gate is necessarily higher, than anywhere else in the United States—so high in fact that gas heating costs are substantially the same as [2338] oil, with no competitive advantage in price and with no margin to absorb additional costs or losses of economy. As a consequence, losses of a magnitude which elsewhere might easily be absorbed may here mean the difference between life and death.

In the second place, the gas operations within the NEES organization have already developed into an autonomous and independent department, assuring all necessary freedom for promotion and development in unrestricted competition with both oil and electricity, while at the same time enjoying substantial advantages and economies from their connection with the NEES system and its electric operations. This is a case of demonstrated advantages and security as contrasted with the hypothetical risks against which the statute is directed. How this gas division will operate is not a matter of theory and conjecture. It has actually been an effective and successful operation long enough to permit examination of its records and evaluation of the results. It has proved its case.

Third, all of the gas properties involved in this proceeding are located in the single state of Massachusetts, and that State has no public policy against combination of electric and gas utilities but affirmatively favors it. In fact, the Department of Public Utilities is so concerned over the possibility of separation and the resulting loss of [2339] economies and impairment of service that it intervened in these proceedings to oppose any possible divestment order.

The chairman of the Department personally appeared with counsel and testified that the combination of gas and electric utilities is beneficial and in actual practice proves helpful rather than detrimental to supervision and regulation. The public policy of the state in which they operate and the opinion and recommendations of the state agency having direct supervision and regulation of these gas companies cannot be lightly ignored.

These are illustrations of the unique character of this case. Others might be cited. In order to provide the Commission with all of the facts and figures necessary for a proper analysis and decision, because we regard a right decision as of vital importance, we have introduced exhaustive reports, statistics and estimates prepared by the top management of the companies and by the best outside independent experts we could find.

Incidentally, in both direct examination and under much cross examination, both company executives and these outside experts have shown impressive familiarity in depth with the business, its facilities and its requirements; and this was all the more notable in view of the fact that they were not called for cross examination until approximately one year after they had made their studies and [22340] prepared their estimates and set up their pro forma organization.

This presentation has resulted in an admittedly voluminous record. In an effort to reduce the volume of testimony, and particularly to force this case into some of the categories established by previous cases, the staff has understandably, but we think mistakenly, endeavored to exclude much of the evidence offered on behalf of the respondents.

Even while insisting that the first issue to be decided was whether or not the gas companies in their present situation constitute a single integrated public utility system, they

have strenuously objected to evidence showing the substantial economies which are now enjoyed by reason of being operated as a single coordinated system but which would be lost if the several gas companies were separately operated—evidence essential to a determination of that issue under Section 2(a) 29A.

Notwithstanding the fact that there is no way of knowing how the several gas companies would be disposed of under a divestment plan and no basis for assuming combined operation under any new ownership, they have objected to our even showing what the losses in the event of separation and separate operation would be—in our view the very losses which are most significant.

[2341] They have taken the position that any losses resulting from discontinuance of the services of the Service Company should not be taken into account, apparently relying on general language concerning service company economies in a different context and related to entirely different functions, and failing to take into account the fact that in the present case the Service Company is an integral part of the operating organization and if it is eliminated its functions must be otherwise supplied, as contemplated by the pro forma organization which we have set up.

They have objected to the admission of evidence showing losses to the electric companies on the ground that the Commission has held that such losses are not to be taken into account, notwithstanding the fact that the Commission's decision on this point was reversed by the Fifth Circuit Court of Appeals in the most recent case on the point. In support of its position, the staff relied on a brief filed on behalf of the Commission in an appeal of the case to the Supreme Court, apparently assuming that because the Commission wished to argue a different view on appeal it would refuse to recognize the decision, or even to reconsider the question in the light of that decision.

Subsequently the staff recognized the relevance of this evidence, at least for certain purposes, and not only withdrew its objection but requested us to furnish additional omission. [2342] The staff objected to the admission of evidence showing the loss of the benefits of consolidated tax returns, on the ground that shortly after consolidated returns were inaugurated and while they were still in an experimental state the Commission had viewed such benefits as dependent on changing laws and not sufficiently certain to justify reliance on them, notwithstanding the fact that consolidated returns have now become firmly established in our tax structure, are regularly taken into account in rate making and can be relied on with as much certainty as any other factors entering into the computation of benefits and losses, and the Commission now may well reach a different conclusion.

Finally, the staff has been most critical of the order in which our evidence has been presented, stating repeatedly that they would have preferred for us to compare present operation with pro forma operation of the gas companies as a group, instead of making the comparison first on the basis of individual company operation and then on the basis of combined or group operation, using much of the material prepared in the former as the basis for the latter.

Briefly, our position throughout has been that this case is fundamentally different from any previous case before the Commission, that even in areas where superficially there appears to be a similarity and previous [2343] pronouncements of the Commission appear to be applicable the peculiar facts in this case distinguish it, that in view of developments subsequent to some of the Commission's pronouncements on which the staff has relied the Commission can properly be asked to reconsider its position, if and to the extent applicable to the facts of this case, and that we

are entitled to have in the record all evidence necessary to enable the Commission and the court to give fair consideration to our contentions and to decide this case on its merits as a case of first impression.

Now I do not want what I am saying to be interpreted as criticism of the conduct of the staff in this case. I suppose it was only natural for them to endeavor to narrow the issues and to bring the case so far as possible within the previous decisions of the Commission. At the same time, I think we must recognize that this attitude of the staff and the continuing controversy over the scope of the issues and the admissibility of evidence has necessarily resulted in their being unable to take a completely objective and unprejudiced point of view in formulating a decision on the several issues that this case raises, and I do not think it would be fair to ask them to attempt to do so. We cannot accept their interpretation of the significance of certain previous decisions of the Commission. Their participation in formulating the [2344] Commission's decision, however hard they tried to be judicious—and we know they would make a sincere effort—would necessarily reflect the arguments they have made, rather than a neutral judgment as between their views and ours. For this reason we feel that we must object to participation by the interested staff in the preparation of the decision.

With reference to the preparation of the recommended decision by the hearing officer, the unfortunate illness of Mr. Ewell, necessitating a change of hearing examiners in the midst of the case, presents a serious obstacle to that adequately clear course. Furthermore, since the issues seem well defined, we do not see that a tentative or other preliminary decision could serve any particularly useful purpose. We therefore request that the matter go directly to the Commission at we will have decision on the whole record, assuming

an opportunity to file proposed findings and conclusions with supporting briefs, and to be heard in oral argument before any decision is formulated.

In other words, we waive any right we may have to call for a recommended, tentative or preliminary decision, whether by the hearing officer or by any other responsible officer of the Commission, or the Commission itself; we object to any assistance or participation by the interested division of the Commission in the preparation of the Commission's [2345] decision; and we request the thirty-day waiting period between the issuance of the Commission's order and the date it is to become effective.

Now in view of the unusual complexity of this case and the size of the record, to say nothing of the imminence of hot weather and the vacation period, both we and the staff will need a reasonably long time for the preparation of proposed findings and conclusions and supporting briefs. We have discussed this with the staff and have agreed to the following schedule, if acceptable to Your Honor and to the Commission; namely, that our brief be filed within 90 days, that the staff's reply brief and other filings be completed within 60 days thereafter, that our reply brief be filed within 30 days after that and when and if there should be any request for any further briefing, that would be within the discretion of the Commission.

We request an opportunity for oral argument before the Commission promptly following the certification of the entire record in this proceeding to the Commission for decision, after the filing of all briefs. We realize that we are asking for more time before the first filing than the rules authorize the Hearing Officer to grant and so we respectfully request that the matter be referred to the Commission for a ruling.

Hearing Examiner: This record, as Mr. Quarles [2346] stated, is voluminous and complex. The pages are in excess

of 2300, and a large number of exhibits have been admitted in evidence. The last exhibit number is Respondent's Exhibit 131, and some of the exhibits carry letter subdivisions A, B, C, D, E and so forth. And I should think that both sides would need the time requested in this stipulation that Mr. Quarles appended to his statement. However, as I am not allowed by Rule 16(e) of the Commission's rules of practice to prescribe a period longer than 30 days after close of the hearing for the first filing to be made, I cannot approve or prescribe the suggested post-hearing procedure. However, I will certify the request for the additional time and the Commission will undoubtedly inform counsel as to its action in that regard.

Are we now ready to close the hearing?

Mr. Nowlin: We are.

Hearing Examiner: Very well, the hearing is now closed, and I will make the certification promptly to the Commission as to what the post-hearing procedure will be.

(Whereupon, at 11:10 o'clock a.m., the hearing was concluded.)

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#### FINDINGS AND OPINION OF THE COMMISSION

##### INTEGRATION OF HOLDING COMPANY SYSTEM

###### *Non-Retainability of Additional System*

Where registered holding company's subsidiaries conducting electric operations constitute single integrated utility system which holding company elects to retain as its principal utility system, and holding company seeks to retain other subsidiaries conducting gas operations and constituting integrated gas utility system, *held*, gas subsidiaries are not retainable as additional system where evidence is not sufficient to justify finding that "loss of substantial economies" within the meaning of Clause A of Section 11(b)(1) of the Public

Utility Holding Company Act would be incurred by gas system if its retention were not permitted.

*Retainability of Other Business*

Service company controlled by registered holding company, *held*, retainable as reasonably incidental or economically necessary or appropriate to operation of principal electric utility system controlled by holding company.

**APPEARANCES:**

JOHN R. QUARLES, JAMES VOBENBERG, RICHARD B. DUNN, and WILLIAM D. ANDREWS, for New England Electric System and its subsidiary companies.

DAVID N. BRACKMAN, HERBERT BAER and EDWARD G. SEFERIAN, for the Massachusetts Department of Public Utilities.

SOLOMON FREEDMAN, AARON LEVY, FREDERICK ZAZOVE and WILLIAM R. NOWLIN, for the Division of Corporate Regulation of the Securities and Exchange Commission.

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By WHITNEY, *Commissioner*

This is the final phase of proceedings instituted by us under Section 11(b)(1) of the Public Utility Holding Company Act of 1935 ("Act") for the purpose of determining the extent to which the electric, gas, and other operations of the holding-company system of New England Electric System ("NEES"), a registered holding company, may be retained under common control.

We previously found that the electric utility assets of the NEES subsidiaries meet the definition of a single integrated public-utility system,<sup>1</sup> and NEES has elected to retain those assets as its principal system. The chief remaining issue now before us is whether the gas utility

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<sup>1</sup> *New England Electric System*, 38 S.E.C. 193 (1958).

subsidiaries of NEES, which concededly constitute a single integrated gas utility system as defined in the Act,<sup>2</sup> may also be retained as an additional integrated utility system under the standards prescribed in Section 11(b)(1) of the Act.

Hearings were held at which evidence in support of retention was presented by NEES and its subsidiaries ("respondents") and by the Department of Public Utilities of the Commonwealth of Massachusetts ("Massachusetts DPU") and evidence in opposition to retention was adduced by our Division of Corporate Regulation ("Division"). Proposed findings and briefs were filed, and we heard oral argument. Our findings are based on an independent review of the record.

#### DESCRIPTION OF THE NEES SYSTEM

NEES is a holding company controlling seven electric utility subsidiaries and eight gas utility subsidiaries. It also owns thirty percent of the outstanding stock of Yankee Atomic Electric Company through one of its electric utility subsidiaries and all the common stock of New England Power Service Company ("NEPSCO"), which provides various services to the entire system. The retail electric operations serve 824,000 customers in the states of New Hampshire, Massachusetts, Rhode Island, and Connecticut comprising a franchise area of about 4,600 square miles with a total population of over 2,300,000 people. As of

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<sup>2</sup> Section 2(a)(29)(B) of the Act defines an integrated gas utility system as ". . . a system consisting of one or more gas utility companies which are so located and related that substantial economies may be effectuated by being operated as a single coordinated system confined in its operations to a single area or region, in one or more States, not so large as to impair (considering the state of the art and the area or region affected) the advantages of localized management, efficient operation, and the effectiveness of regulation: *Provided*, That gas utility companies deriving natural gas from a common source of supply may be deemed to be included in a single area or region."

December 31, 1958, the gross investment in electric plant and equipment was approximately \$600,000,000 and gross revenues from sales of electricity in 1958 were approximately \$143,000,000.<sup>3</sup> The NEES gas subsidiaries provide retail service to about 237,000 customers in Massachusetts only, in an area of 660 square miles with a population of approximately 1,032,000 people. Of this gas franchise area, about 494 square miles, or 75%, is also part of the franchise area of NEES' electric subsidiaries, and approximately 78% of the gas customers are also served with electricity by the NEES electric companies. The NEES gas subsidiaries and NEES' ownership of their common stock are as follows:

<i>Company</i>	<i>% Common Stock Ownership by NEES</i>
Central Massachusetts Gas Company .....	100.00
("Central Massachusetts")	
Lawrence Gas Company .....	90.43
("Lawrence")	
Lynn Gas Company .....	93.76
("Lynn")	
Mystic Valley Gas Company .....	99.41
("Mystic")	
North Shore Gas Company .....	97.52
("North Shore")	
Northampton Gas Light Company .....	100.00
("Northampton")	
Norwood Gas Company .....	99.38
("Norwood")	
Wachusett Gas Company .....	100.00
("Wachusett")	

Most of these gas properties were acquired by NEES in the period from 1926 to 1931. As of December 31, 1958, the NEES investment in gross gas plant and equipment was approximately \$56,300,000 and gross revenue from gas

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<sup>3</sup> The basic figures in the record are for the year ended December 31, 1958, the latest year for which audited financial statements were available at the time of the hearings, and 1958 has been used as a test year for the purposes of these proceedings.

sales in 1958 was approximately \$22,700,000. The bulk of the gas sold by the NEES subsidiaries is natural gas produced in the southern United States, principally Texas, and purchased from pipeline companies that deliver it to Massachusetts.<sup>4</sup> Each of the gas subsidiaries also owns and operates facilities for the production of manufactured gas for peak-shaving and emergency stand-by purposes.

After an attempt to sell the gas properties in the early 1950's which was not consummated because of the prospective purchaser's inability to obtain required financing, in 1952 NEES separated various aspects of the activities of the gas subsidiaries from those of the electric companies. It established a Gas Division with headquarters at Malden, Massachusetts,<sup>5</sup> to supervise the 8 gas companies. The executive head of the Gas Division is also president of each of the gas companies and the staff of that Division are all part-time employees of each of the gas companies, and the salaries of those persons are paid pro rata by those companies. The Gas Division has four functional departments—management, marketing and supply, operations, and merchandising—and provides centralized service to the gas companies with respect to such matters as gas acquisition and distribution, engineering, sales promotion, and new business development. Each of the gas companies has a vice-president and general manager who is in immediate charge of the company and reports directly to the head of the Gas Division; the latter, in turn, is responsible to the NEES top management.

Other aspects of the gas and electric business have continued to be handled on a joint basis. Such joint activities

<sup>4</sup> Seven of the gas companies purchase natural gas from one pipeline, and the remaining company purchases such gas from another pipeline. About 98% of the natural gas is purchased from the first pipeline company.

<sup>5</sup> All of the gas companies are within 48 miles of Malden, except one which is 80 miles distant.

include treasury and accounting services, meter reading, customer billing, labor negotiations and administration of employee programs, procuring insurance, purchasing operations, and joint use of office and other space and equipment. Some of these services are performed by NEPSCO on a contract basis with the individual system companies. NEPSCO's services include supervision of local accounting departments, preparation of tax returns and regulatory reports, and handling of rate, personnel and public relations matters. In 1958 NEPSCO's charges to the gas companies aggregated \$317,000.

#### STATUTORY STANDARDS

Section 11(b)(1) of the Act imposes requirements for geographic and economic integration which were designed to eliminate evils that Congress found to exist "when the growth and extension of holding companies bears no relation to . . . the integration and coordination of related operating properties."<sup>6</sup> Congress recognized that in the absence of clearly overriding considerations a utility system should have a management single-mindedly devoted to advancing the interests of its investors and consumers and not engaged, through the means of the holding company device, in operating other separate or competing utility or non-utility businesses. It accordingly laid down the basic requirement in Section 11(b)(1) that registered holding companies and their subsidiaries limit their operations to a single integrated public utility system and any other businesses reasonably incidental or economically necessary or appropriate to the operations of such system. Exemption from this requirement was provided in exceptional cases meeting specific geographic and economic tests. Under Clauses A, B and C of that Section, we must permit a

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<sup>6</sup> Section 1(b)(4) of the Act.

holding company to continue to control one or more additional integrated public utility systems if we find that:

“(A) Each of such additional systems cannot be operated as an independent system without the loss of substantial economies which can be secured by the retention of control by such holding company of such system;

“(B) All of such additional systems are located in one State, or in adjoining States, or in a contiguous foreign country; and

“(C) The continued combination of such systems under the control of such holding company is not so large (considering the state of the art and the area or region affected) as to impair the advantages of localized management, efficient operation, or the effectiveness of regulation.”

It is well settled that gas properties and electric properties, since they pertain to different and competing utility businesses, do not constitute a single integrated public utility system,<sup>7</sup> and as noted NEES concedes that its electric and gas properties constitute two separate integrated public utility systems. Since NEES has elected to retain the electric properties as its principal system, the gas properties can be retained as an additional system under NEES' control only if the tests of Clauses A, B, and C above are satisfied. There is no question under Clauses B and C. Since all the NEES gas subsidiaries are located within Massachusetts, the standard of Clause B is met. Also the Division acknowledges, and we find, that the size of the combined gas and electric operations is not so large

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<sup>7</sup> See *Columbia Gas & Electric Corp.*, 8 S.E.C. 443, 462-63 (1941); *The United Gas Improvement Co.*, 9 S.E.C. 52, 77-83 (1941); *The North American Co.*, 11 S.E.C. 194, 215-216 (1942), aff'd on other grounds *sub nom. North American Co. v. S.E.C.*, 133 F.2d 148 (C.A. 2, 1943); *Philadelphia Co.*, 28 S.E.C. 35 (1948), aff'd *sub nom. Philadelphia Co. v. S.E.C.*, 177 F.2d 720, 723 (C.A.D.C., 1949).

as to raise any substantial question under the standards of Clause C with respect to the advantages of localized management, efficient operation, and the effectiveness of regulation. The issue remains, therefore, whether continued control by NEES of the gas companies is necessary to prevent the loss of substantial economies within the meaning of Clause A.

Clause A was intended to limit the retention of utility systems in addition to the principal system controlled by a holding company to situations where it could be shown that the additional systems were integrated in nature and "were so small that they were incapable of independent economic operation"<sup>8</sup> and had a "real economic need" for management together with the principal system.<sup>9</sup> Congress was aware that some loss of economies would usually result from the separation of jointly controlled utility systems,<sup>10</sup> but considered that continued joint management should be permitted only where separation would entail a loss of economies which would be substantial in the sense that they were important to the ability of the additional system

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<sup>8</sup> Remarks of Senator Wheeler following passage of the Act, 79th CONG. REC. 14479 (1935): "After considerable discussion the Senate conferees concluded that the furthest concession they could make would be to permit the Commission to allow a holding company to control more than one integrated system if the additional systems were in the same region as the principal system and were so small that they were incapable of independent economical operation. . . ."

<sup>9</sup> H.R. Rep. No. 1903, 74th Cong., 1st Sess., p. 71 (1935). See also *The North American Co. v. S.E.C.*, 327 U.S. 686, 696-97 (1946): "In essence [Section 11(b)(1)] confines the operations of each holding company system to a single integrated public utility system with provision for the retention of additional systems only if they are *relatively small . . . and unable to operate economically under separate management without the loss of substantial economies.*" (Emphasis added.)

<sup>10</sup> See Hearings before Committee on Interstate and Foreign Commerce on H.R. 5423, 74th Cong., 1st Sess. (1935), Pt. 2, pp. 1249, 1402-03, 1530-31, Pt. 3, pp. 2257-77, and before Committee on Interstate Commerce on S. 1725, 74th Cong., 1st Sess. (1935), p. 65.

to operate soundly. As stated by the United States Circuit Court for the District of Columbia:

" 'Substantial economies,' means something different and, we think, something more than substantial savings in operational expenses. Congress could have said that the divorcement shall not be decreed if the controlling utility or the controlled utility show at a hearing that the cost to operate the latter separately from the former would be substantially greater. If the Act can be construed as meaning just that, then the severance ordered here is wrong. 'Substantial economies' must mean, as was said in *North American Co. v. Securities and Exchange Commission*, 2 Cir., 133 F.2d 148, 152, 'important economies.' The required *importance* must relate to the healthful continuing business and service of the freed utility. But Congress was not so much concerned with the profit motive of utilities as with the evils that had become prevalent through combinations of utilities. It was first concerned with the wiping out of the evils which the practice of utility combinations had produced, and Congress only consented to dull the blade of its chosen weapon in proved hard cases." (Italics in original.)<sup>11</sup>

In light of the legislative background, as buttressed by court interpretation, demonstrating that Clause A was meant to provide for a limited exception to the general policy expressed in the Section, we have held that the clause must be strictly construed and that a registrant seeking to retain an additional system has the burden of showing by clear and convincing evidence that such additional system cannot be operated under separate ownership without the

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<sup>11</sup> *Engineers Public Service Co. v. S.E.C.*, 138 F.2d 936, 944 (C.A. D.C., 1943).

loss of economies so important as to cause a serious impairment of that system.<sup>12</sup>

#### ESTIMATED LOSS OF ECONOMIES FROM SEVERANCE OF GAS SYSTEM

In support of their position that severance of the gas subsidiaries from the NEES system would result in the loss of "substantial economies" within the meaning of Clause A, respondents rely essentially upon a study made for them by Ebasco Services Incorporated ("Ebasco"), management consultants with extensive experience in the utilities field, which showed that severance would bring an increase in operating costs. Based on Ebasco's supplemented study,<sup>13</sup> respondents' estimated increase in annual

<sup>12</sup> *Engineers Public Service Co.*, 12 S.E.C. 41, 60 (1942); *Philadelphia Co.*, 28 S.E.C. 35, 45-47 (1948), aff'd *sub nom Philadelphia Co. v. S.E.C.*, 177 F.2d 720 (C.A.D.C., 1949); *Middle South Utilities Inc.*, 35 S.E.C. 1, 11 (1953); *The North American Co.*, 11 S.E.C. 194, 208-9 (1942), aff'd on other grounds *sub nom. North American Co. v. S.E.C.*, 133 F.2d 148 (C.A. 2, 1943); *Cities Service Power & Light Co.*, 14 S.E.C. 28, 137 (1943); *The Middle West Corp.*, 15 S.E.C. 309, 318 (1944); *Cities Service Co.*, 15 S.E.C. 962, 984 (1944).

<sup>13</sup> The study as initially presented assumed that each of the gas companies would be operated separately, it being respondents' view that, notwithstanding the gas companies are presently operated as a single integrated public utility system, the fact that they might be disposed of individually or in groups made it proper to consider the increase in costs which would be incurred under individual operation. Following objections by the Division that the proper approach required the assumption that the gas companies would continue to be operated together as a single system, rather than separately, the study was supplemented so as to provide for a Central Organization for the eight gas companies after severance. The study, as thus modified, indicated the estimated increase in annual operating costs of the gas system after severance would be \$329,400 less than the increase estimated on the initial assumption of eight separate gas companies without any Central Organization.

It would be inappropriate to give any weight to the estimates of increased costs to the gas companies on the assumption of separate operations by each of them after severance. Both we and the courts have held that the loss of economies to be considered under Clause A

operating costs of the gas system after severance would be \$1,165,600.<sup>14</sup>

In analyzing the Ebasco estimate of increased costs to the gas system, it is necessary at the beginning to make a downward adjustment in the amount of \$67,000, the amount by which NEPSCO's charges to the gas companies in 1958

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is that pertaining to the additional integrated system sought to be retained (See *Engineers Public Service Co. v. S.E.C.*, *supra* note 11 at 944; *The North American Co. v. S.E.C.*, *supra* note 12 133 F.2d at 152; *Philadelphia Co.*, *supra* note 12, 28 S.E.C. at 52; *General Public Utilities Corp.*, 32 S.E.C. 807, 838-9 (1951) ), and we find no basis for departing from this established interpretation of the Act in this case. Moreover, we noted in the *General Public Utilities* case at p. 835, note 33: "The severance study also estimated the 'loss of economies' upon the assumption that each of the gas divisions was a separate integrated public utility system. Since we have determined that the gas properties constitute a single integrated public-utility system, we have given no consideration to this aspect of the study."

Respondents' assertion that a sale of the gas properties as a single system may be difficult if not impossible to achieve is not borne out by the record and overlooks the fact that in 1951 NEES obtained three bids for its gas properties as a whole, which were then more extensive than those now held, even though as has been indicated the contract which was signed with the highest bidder was subsequently terminated because of the latter's failure to arrange necessary financing. Moreover, it fails to consider other methods of divestment of the gas system as a whole. Thus, NEES' stock holdings in the gas companies could be placed in a new company the stock of which could be sold or distributed as dividends to the NEES stockholders over an appropriate period of time.

<sup>14</sup> The study also estimated that the costs of the NEES electric subsidiaries would be increased after severance by \$804,800 per year. However, such increase is not a factor which could justify retention of the gas system if it is found that the latter can be economically operated independently of NEES. *General Public Utilities Corporation*, 32 S.E.C. 807, 838-39 (1951). The thrust of the statute is the limiting of interstate utility holding company operations to a single integrated utility system managed exclusively in the interests of its own investors and consumers and the restricting of ownership or domination of such a system by interests principally engaged in other activities. The Act is not directed at preserving the benefits which the principal activity derives from the joint ownership with the other activities. Moreover, it may be noted that in any event the asserted \$804,800 loss of economies to the electric system cannot properly be

would have been increased had a revised basis of payments authorized by us at the end of 1959 been in effect in 1958.<sup>15</sup>

We accordingly turn to the questions of whether the Ebasco estimate, thus reduced to \$1,098,600, is an acceptable basis on which to determine the present issues and whether it indicates that the test of Clause A is met. The Division contends that the estimate is not valid because it attributes excessive amounts of expenses to the *pro forma* combined gas operations and that, even assuming increased costs as estimated, they do not represent the loss of substantial economies warranting retention of the gas properties under common control with the NEES electric system.

The Ebasco estimate is inadequately supported in a number of important aspects and leaves considerable doubts which respondents have not satisfactorily overcome in the record. Of the total estimated increase in the expenses of the gas companies after severance, \$472,100 is attributed by Ebasco to so-called treasury and accounting costs, which comprise the categories of customer accounting, general accounting, machine accounting, storesaccounting and miscellaneous services. The largest single item is with respect to customer accounting, as to which an increase in costs is estimated in the amount of \$415,600 or approximately 40% of the total \$1,098,600 estimated increase. In light of the fact that the supplemented Ebasco study, which assumed that the gas system would be operated on a combined basis, estimated the same increase in customer accounting costs as appeared in the original Ebasco study, which was based on the assumption that the companies would be operated

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viewed as "substantial" in light of the fact that it is but 0.56% of that system's electric operating revenues and 0.76% of its electric operating revenue deductions before Federal income taxes.

<sup>15</sup> Under the revision approved in 1959, NEES's payroll and related expenses were transferred to NEPSCO and were allocated to the companies benefiting from the services according to a designated formula.

separately, and in light of respondents, and Ebasco's failure adequately to explain why combined operations would not result in lesser amounts for such costs, we conclude that the \$415,600 figure is overstated.

More specifically, one of the important items making up the estimated increase in the cost of customer accounting after severance is customer billing. Ebasco projected the gas billing costs on the basis of separate billing operations by each of the gas companies. Its estimate provides for the employment of additional personnel and rental of additional equipment by those companies to do their own billing.<sup>16</sup> At present, gas billing is done on a combined basis with one or more of the NEES electric companies in the case of each of the gas companies except Norwood, the smallest of the companies.<sup>17</sup> However, respondents have not given any satisfactory reason why at least some form or forms of combined billing procedure could not be employed advantageously by the gas companies, in light of the fact that their aggregate of 237,000 customers is located in a relatively compact area.<sup>18</sup>

<sup>16</sup> The exact cost attributable by Ebasco to the additional billing personnel and equipment in the case of each of the gas companies is not identified in the estimate, but in the case of Mystic and Lynn they would total \$34,700.

<sup>17</sup> Wachusett and Central Massachusetts have their billing done by the NEES Central District Treasury Organization at Worcester. The billing for Lawrence is done jointly with that of Merrimack Electric Co. Lynn and Lynn Electric Company and Northampton and Northampton Electric Company also have joint billing operations for their respective gas and electric customers. Mystic's and North Shore's billing is done at Malden, together with the billing for Suburban Electric Company.

<sup>18</sup> The testimony of respondent's Ebasco witness clearly indicates that centralized billing is predominant in the utilities industry, and that savings would be effected thereby. However, although he expressed the opinion that central billing would not effect "too substantial" a saving for the severed gas companies, no attempt was made to determine whether, and the extent to which, such savings would be substantial.

Also inadequately explained and casting doubt on the estimates of increases in customer accounting expenses is the disparity between the increases attributed to the gas companies and those attributed to the electric companies. Thus, for example, in 1958 the cost of customer accounting performed for Northampton and Northampton Electric Lighting Company was allocated \$17,000, or \$2.12 per customer, to the gas company, and \$34,200, or \$3.60 per customer, to the electric company; whereas under the *pro forma* estimates, the gas company's costs after severance would amount to \$48,400, or \$6.03 per customer, representing an increase of 184%, and those of the electric company would be \$38,500, or only \$4.05 per customer, an increase of 13%. Even accepting NEES' contention that customer accounting costs should be viewed together with the other treasury and accounting costs, a substantially similar disparity appears. Total treasury and accounting payroll costs of Northampton, according to respondents' estimates, would increase by 85% to \$89,300, or \$11.13 per customer, while those of the Northampton Electric Company would increase by only 24% to \$88,900, or \$9.35 per customer. Again in the case of Lynn and Lynn Electric Company, which jointly serve approximately the same territory and a comparable number of customers, and which have done their treasury and accounting work jointly, in 1958 the payroll costs allocated to the gas company amounted to \$228,300, or \$5.58 per customer, and those charged the electric company were \$64,000, or \$8.02 per customer. Under respondents' estimates the *pro forma* costs would increase by 71% to \$390,133, or \$9.53 per customer, for the gas company and only by 22% to \$445,323, or \$9.81 per customer for the electric company. The record fails to indicate the validity of these disproportionate effects on the customer accounting and the total treasury and accounting costs of the gas and electric companies upon severance.

These areas of expense, in general, are related to the number of customers served and not the type of utility business conducted.

In view of respondent's burden of proof and the absence of a persuasive explanation on the record, Ebasco's failure to consider employment of combined billing procedures and its inadequately explained disparate treatment of certain effects of severance on the gas and electric companies, respective, substantially impair the credibility and preclude the acceptance of its estimate of a \$472,100 increase in treasury and accounting costs and, in turn, of its over-all estimate of increased costs (of which that figure is a material part) in the determination of whether severance would result in a substantial loss of economies.

Respondents contend that in addition to the estimated increased expenses to which they have assigned dollar amounts there will be other significant losses as a result of severance which are not measurable in dollars. They assert in particular that there would be a loss of experienced administrative, supervisory and long-range planning personnel and services. However, the Ebasco study purportedly estimated the costs of providing organizations for the gas companies which would supply appropriate performance and standards.<sup>19</sup> Moreover, even assuming there

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<sup>19</sup> The Central Organization for the gas companies provided for under the supplemental Ebasco study is estimated to have an annual cost of \$574,000 and would include executive and supervisory officials and personnel. It would be headed by a president with an annual salary of \$40,000, as compared to the \$25,000 salary paid in 1958 to the President of the NEES Gas Division, who is also president of the eight gas subsidiaries. A new position of Executive Vice President would be created, with the incumbent, whose duties would include assisting the president and supervising the other executives, receiving a salary of \$25,000. Like the NEES Gas Division, it would have three assistants to the president and a sales manager, with functions and salaries similar to those at present except that the latter's salary would be \$17,500, representing an increase of \$4,000 per year, and reflecting additional sales promotion duties which would be delegated to him

would be some "intangible" losses, they must be regarded as part of the over-all effects of severance which normally accompany any reorganization of operations and which Congress must have anticipated when it provided that, other than in exceptional circumstances, separate utility systems should be under separate control. Further, we are unable to accept the suggestion that the NEES integrated gas system, the second largest gas utility operation in Massachusetts, would not be able to provide management and service comparable to that provided by other gas utilities in the state.<sup>20</sup> In that effort it would also have the benefit of the experience in unified gas operations gained by the Gas Division since its formation in 1952.

Even were we to accept the \$1,098,600 estimate of loss of economies to the NEES gas companies, it would not lead us to conclude that such a loss is so substantial, when compared with the loss of economies involved in prior divestment cases and viewed in light of the objectives of the Act, as to warrant retention of the gas properties under common control with the NEES electric system. Although that amount is larger than the amounts involved

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by the president. Twelve additional employees would be provided to handle public and personnel relations and safety and purchasing matters. The salaries of these latter employees would total \$87,000, approximately the same amount paid in 1958 as salaries to locally employed personnel and NEPSICO for similar services.

<sup>20</sup> See *Cities Service Co.*, 15 S.E.C. 962, 982 (1944), where in rejecting a contention that deprivation of the services of a system service company would result in loss of substantial economies, we observed that:

"to accept an estimate of present benefit from services rendered by system service companies as a measure of economies which would be lost as a result of independence requires us to assume that financial severance will cast operating units completely adrift, incapable of providing themselves with comparable benefits as cheaply either directly or through mutual arrangements with other operating units. We cannot make that assumption."

See also *The North American Company*, 11 S.E.C. 194, 210 (1942).

in prior severance cases, we have previously pointed out that the test of the substantiality of the estimated loss is not in absolute terms but rather in relation to total revenues, expense and income.<sup>21</sup> In the instant case, the amount of the estimated loss of economies would be equal to 4.83% of the gas system's operating revenues, 6.03% of operating revenue deductions (excluding federal income taxes), and 23.28% of gross income and 29.94% of net income before federal income taxes. These ratios are lower or not significantly higher than corresponding ratios of gas systems whose divestment we have required on the ground that the estimated loss of economies was not substantial within the meaning of Clause A.<sup>22</sup>

Respondents and the Massachusetts DPU argue that an increase in operating costs would have an exceptionally adverse impact in the case of the NEES gas subsidiaries and therefore should be viewed as more serious than an equal dollar amount of increases in other cases because of the highly competitive position of gas in relation to fuel oil in the Massachusetts area. They point out that natural gas is piped from Texas and the price is higher in the New England area than in any other part of the country, whereas oil is brought in by tanker and its price is virtually the same as or lower than in any other part of the United

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<sup>21</sup> *Philadelphia Co.*, 28 S.E.C. at 49; *General Public Utilities Corp.*, 32 S.E.C. at 837.

<sup>22</sup> Attached as an Appendix is a table which compares the adjusted Ebasco estimate of loss of economies to the NEES gas subsidiaries with the estimated losses in the prior cases where similar computations were made, in all of which we ordered divestment of the additional system. We do not attribute any comparability to the present case to the gross income and net income ratios of the gas properties of Jersey Central Power & Light shown in that table, which are substantially higher than those of the NEES gas group, because the gross income of Jersey Central's gas department prior to any severance adjustments was found to be so low as to represent an unusually low rate of return on the amounts invested in that property. See *General Public Utilities Corp.*, 32 S.E.C. 807, 837 (1951).

States. The chief market for gas in the NEES area is residential space heating, and Ebasco estimated that the annual cost of gas for heating a typical New England house is \$166, as compared with the cost of oil of \$173, whereas in other parts of the United States the differential ranges from \$27 to \$118 in favor of gas. It is contended that an increase in the cost of gas operations as a result of severance would force an increase in gas rates to customers, and that such an increase would impair the slight competitive advantage now held by gas.

However, even assuming that the described competitive conditions in Massachusetts will continue to prevail, despite efforts to improve the cost position of gas through such means as storage of off-peak natural gas, those conditions obtain generally throughout Massachusetts. There is no evidence that they do not affect in the same manner other independent gas utility companies in the state which nevertheless have been able to conduct their operations and, apparently, earn a fair return without the alleged advantages of common control with electric utilities by a holding company. The situation of the independent companies is different, respondents contend, because the opportunity for increased sales in the NEES gas service area is limited by a more moderate rate of economic growth, population increase, and suburban housing construction than in other parts of the state.<sup>23</sup> However, respondents failed to show that, because of these factors, the impact of severance would be such that the combined NEES gas operations, which are larger than those of most of the other gas utility companies in Massachusetts, would be unable to

<sup>23</sup> Respondents point out that between 1950 and 1960 the population in the NEES franchise areas increased by only 11% while in the franchise areas of seven independent Massachusetts gas companies used by the Division for comparison (see p. 13, *infra*) the increase was 18%.

compete effectively with oil, even though the nonaffiliated companies are able to do so.<sup>24</sup>

Moreover, the operating ratio<sup>25</sup> of the NEES gas system after severance of 76.41% would be more favorable or only slightly higher than that of nine nonaffiliated Massachusetts gas companies selected by respondents for comparison that have no joint electric operations, which have a composite ratio of 79.14% and median and mean ratios of 74.87 and 76.35%, respectively.<sup>26</sup> In light of the fact that the operating ratio of the NEES gas companies, even considering Ebasco's estimated increased costs, would still be substantially favorable in comparison with the independent Massachusetts companies, we would be entering the realm of speculation at this time to assume that rate increases would ensue from severance. Especially is this so in view of our finding that these increased cost estimates, on which respondents and the Massachusetts DPU rely in stating that gas rates would have to be increased upon severance, are overstated.

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<sup>24</sup> Of 12 nonaffiliated Massachusetts gas companies which respondents selected for comparison with NEES, only one exceeded the NEES gas utility system in size of gross plant, gross annual revenues, and number of customers. It may also be noted that the NEES gas system is substantially larger than systems we have ordered divested in prior cases, such as those whose pertinent data are set forth in the Appendix table. We found that several of those systems in turn were larger than companies that had demonstrated conclusively their ability to operate effectively free of holding company control. See *Philadelphia Co.*, 28 S.E.C. 35, 46-7 (1948); *Middle South Utilities, Inc.*, 35 S.E.C. 1, 11 (1953).

<sup>25</sup> "Operating ratio" as used above is the percentage of total operating revenue deductions (other than depreciation, amortization of conversion costs, and Federal income taxes) to total operating revenues.

<sup>26</sup> The nine independent Massachusetts gas companies and their operating ratios are: The Berkshire Gas Co., 74.06%; Boston Gas Co., 82.5%; Brockton Taunton Gas Co., 74.59%; Buzzards Bay Gas Co., 73.77%; Fall River Gas Co., 77.31%; Haverhill Gas Co., 74.87%; Lowell Gas Co., 75.75%; Springfield Gas Light Co., 74.65%; and Worcester Gas Light Co., 79.64%.

We also find no merit in respondents' contention that in order to avoid reduction of gas net earnings after severance, gas operating revenues would have to be increased by additional revenue of approximately \$1,500,000, consisting of \$1,098,600 to offset the estimated increased costs plus about \$400,000 to offset, on a two-dollar for one-dollar basis, the asserted nonavailability to the gas companies of an estimated \$200,000 of tax reductions presently resulting from joining in the consolidated income tax return filed by the NEES system. The test of Section 11(b)(1) governing the retainability of additional public-utility systems is not based upon reduction of net earnings upon severance but rather solely upon whether the increased operating costs occasioned by severance are "substantial." With respect to the claimed nonavailability of consolidated tax savings, we have held on prior occasions that any such saving is not related to any operational function of retention of control and is not an appropriate factor upon which to determine retainability of an additional system.<sup>27</sup> In addition, it does not appear that a gas holding-company system that would emerge after severance would not be able to secure all or substantially all of the tax benefits now available to the gas companies under NEES ownership. Moreover, respondents did not show any reason why the consolidated debt ratios (including the effect thereon of NEES own corporate debt) that now appertain to the NEES gas companies and affect the system's consolidated income tax liability would not also be imputed to the new gas holding-company system.

Respondents have also argued that in reaching the conclusion in prior cases that estimated losses of economies were not substantial we considered that separation of the management of the gas or other properties of the addi-

<sup>27</sup> *Philadelphia Co.*, 28 S.E.C. 35, 73 (1948); *Cities Service Co.*, 15 S.E.C. 962, 985 (1946).

tional system from that of the principal system would result in offsetting advantages. They assert that there would be no such advantages in separation of the NEES gas companies because, as a result of the creation of the NEES Gas Division in 1952, the benefits that flow from centralized and separated operation of the gas business have already been achieved.

We cannot accede to the view that such a separation of the gas from the electric operations has been effected as to secure the kind of single-minded management for each that would obtain upon actual divestment. Although the NEES Gas Division handles sales and promotional activities and various other matters for the gas subsidiaries separately from the electric companies, final authority on all important matters rests in the top NEES management. The basic competitive position that exists between gas and electric utility service within the same locality<sup>28</sup> is affected by such vital management decisions as the amount of funds to be raised for or allocated to the expansion or promotion of each type of service. It is asserted by respondents and the Massachusetts DPU that NEES has made all such decisions with full regard for the needs of the gas companies, has vigorously promoted the gas business, and has not suppressed that business in favor of the NEES electric business. The Division points to the fact that of twelve independent Massachusetts gas companies used by respondents for comparison with NEES, seven which the Division considered comparable had substantially higher mcf sales and revenues per customer than the NEES gas companies<sup>29</sup>.

<sup>28</sup> See *Philadelphia Co.*, 28 S.E.C. at 48; *Engineers Public Service Co.*, 12 S.E.C. 41, 58 (1942).

<sup>29</sup> The NEES gas companies sold 44.2 mcf per customer in 1958 while sales of the 7 independent gas companies compared to NEES were 78.8 mcf per customer, or 78% greater. In 1959 the NEES sales were 51.5 mcf per customer compared with sales of 83.7 mcf per customer by the independent group, or 63% greater.

and their customers pay less per mcf of gas consumed than the NEES gas customers.<sup>30</sup> It must be recognized that *prima facie* this disparity in favor of the independent companies, if it is at all meaningful, tends to indicate that the independent gas operations have been more effective than those of NEES gas management. Although the Massachusetts DPU argues that much of this disparity is caused by the difference in population characteristics of the NEES franchise areas and those of the independent companies because the latter had a more rapidly growing suburban residential population, no specific demonstration of the existence or extent of such a causal relation was presented. In any event, it is clear that the determinations respecting the basic interests of the gas companies are made by NEES officials who occupy a dual position in which they must weigh the needs and objectives both of those companies and of the electric companies which represent the principal and most profitable business of the NEES

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Respondents object to the Division's elimination of Boston Gas Co. in making its comparisons. The Division considered that company not to be comparable to the NEES gas companies because it remained a distributor of lower btu manufactured or mixed gas until 1960, whereas the NEES companies distributed natural gas only. The difference in the nature of the gas sold is a material factor affecting comparability, but even were Boston Gas Company included the over-all comparison would not be substantially changed. Boston Gas Company's total gas sales were greater than those of the NEES group, being 57.0% mcf per customer compared with 44.2 mcf for NEES in 1958, and 62.3 mcf per customer compared with 51.5 mcf for NEES in 1959, although in the area of domestic gas sales, Boston Gas sold less than the NEES group, its sales being 34.0 mcf per customer compared with 34.9 mcf for NEES in 1958 and 37.4 mcf compared with 56.1 mcf in 1959. Revenue from gas sales by the NEES companies in 1958 was \$95.44 per customer compared with \$135.19 per customer for the 7 independent companies. In 1959 the comparable figures were \$104.49 for the NEES group and \$142.10 per customer for the independent group.

<sup>30</sup>The cost of gas to NEES customers in 1958 was \$2.16 mcf sold compared with \$1.72 per mcf for the independent group, and in 1959 NEES customers paid \$2.03 per mcf while customers of the independent gas companies paid only \$1.70 per mcf.

system. On the basis of the facts presented in this case we cannot conclude that a management solely interested in and devoted to the gas operations would not be able to advance them more effectively.

Respondents and the Massachusetts DPU further contend that in deciding whether substantial economies would be lost by severance of the gas companies we must accord great if not conclusive weight to that Department's views in favor of the retention of the gas properties within the NEES system. They argue that the Act reflects a Congressional recognition that the desirability of combined gas and electric operations is essentially a local question and indicates a policy of accommodation to the desires of local regulatory authorities on that question. They point to the fact that we have in prior cases granted exemptions from the Act under Section 3 and permitted separation from our jurisdiction pursuant to reorganization plans filed under Section 11(e) of companies having combined gas and electric operations. They cite in particular *Northern States Power Company*<sup>31</sup> which referred to those cases and expressly followed the recommendation of the local regulatory authorities in granting such an exemption.

We of course agree that the views of interested regulatory authorities should always be carefully considered, and have done so in this case. However, we do not view the statutory pattern as contemplating that the standards of Section 11 should yield to the views of state or local authorities whenever the properties whose joint retainability under that Section is in question are gas and electric properties. Section 8 of the Act, to which the Massachusetts DPU points particularly, requires state approval of acquisitions of gas and electric properties to be jointly owned or operated if state law prohibits or requires approval of such

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<sup>31</sup> 36 S.E.C. 1 (1954).

combination. However, it merely serves to prevent circumvention of express state restrictions against such acquisitions by imposing a condition of state approval even though acquisitions are otherwise permissible under the standards of the Act, and does not relate to the divestment of properties under the policy embodied in Section 11 (b)(1). It must be read together with the provisions of Sections 9 and 10 which impose other conditions to acquisitions that apply even if all state laws are met and which are directed toward and embrace the standards of Section 11. Section 10(c) expressly provides that we shall not approve an acquisition which is unlawful under Section 8 or detrimental to the carrying out of the provisions of Section 11 or which we are unable to find would tend to promote the economical and efficient development of an integrated public utility system. It is clear that the economic and geographic integration objections of Section 11 were uppermost in Congress' mind in adopting Sections 9 and 10,<sup>32</sup> and that Section 8 was not intended to permit any relaxation of those objectives. There is significantly no reference in Section 11 to considerations of state or local policy, as there is in various other sections of the Act,<sup>33</sup> and the federal policy embodied in that Section is clearly paramount.<sup>34</sup>

We do not take the view that the Act expresses a federal policy against combined gas and electric operations as such. The Act is concerned with interstate holding company activities and within that area it prescribes tests of retainability which must be met. In the cases where we granted exemptions or otherwise released jurisdiction despite the existence of combined gas and electric operations, the hold-

<sup>32</sup> See S. Rep. No. 621, 74th Cong., 1st Sess. (1935), pp. 29-30; H. R. Rep. No. 1318, 74th Cong., 1st Sess. (1935), p. 15.

<sup>33</sup> Cf. Sections 6(b), 7(g), 8, 9(b)(1), 9(b)(2), 10(f) and 20(b).

<sup>34</sup> See *Public Service Commission v. S.E.C.*, 166 F.2d 784, 787 (C.A. 2, 1948), cert. denied 334 U.S. 838.

ing companies involved did not come within that area because they and their subsidiaries were entirely intrastate or were primarily operating companies or because under the Section 11(e) reorganization plan which was to be effected no interstate holding company system with combined operations would survive. In exemption situations we are not required to determine whether the requirements of Clauses A, B and C of Section 11(b)(1) are satisfied; where the applicable geographic and operational requisites are otherwise met our inquiry with respect to the combined operations aspect is limited to determining whether it affirmatively appears that such operations would be detrimental to the public interest or the interests of investors or consumers. The *Northern States* case involved an application by a holding company which was also an operating company for an exemption from the Act pursuant to Section 3(a)(2), which provides for the exemption of a holding company and its subsidiaries where the holding company is predominantly a public utility company. We found that the predominance test and geographic requirements of Section 3(a)(2) were met, and it was on the question of whether the record showed that the exemption would have a detrimental effect that we considered the favorable views of the local authorities and found that they together with other data presented by the applicant overcame the contention of the Division to the contrary which was supported by a study that we found to be unpersuasive.<sup>35</sup>

In the present case the issue is whether respondents, an

<sup>35</sup> Respondents and the Massachusetts DPU also cite *Middle South Utilities, Inc.*, 35 S.E.C. 1 (1953), where in proceedings under Section 11(b)(1) the City of New Orleans recommended retention by New Orleans Public Service, Inc., a subsidiary of Middle South whose principal business was electric, of gas and transportation properties and we did not order divestment of those properties. However, one of the factors presented by the City was that it had purchase option rights which would have been lost by severance. It was partly because of that situation that we decided not to order divestment at that time.

interstate holding company system headed by NEES, have made the requisite showing under Clause A of Section 11(b)(1) that the losses from severance of the gas companies would be substantial. As has been stated, respondents rely on the Ebasco study. The Massachusetts DPU which has made no study itself, states that the estimates contained in the study conform to the losses of economies that its own familiarity with the NEES system would lead it to anticipate, and it joins in Ebasco's opinion that such losses would be substantial. We have seen that the study is deficient with respect to its principal item of estimated loss, thus materially impairing its persuasiveness and making it unacceptable. We have also been unable on the basis of the record before us to accept the contention that there would be other significant losses not reflected in the dollar estimates or to find that the gas companies could not be soundly and economically operated independently of NEES, even assuming the validity of the estimates in the Ebasco Study. On the basis of our consideration of the entire record as to the nature and extent of the claimed losses, we cannot find that respondents have met their burden of showing that the test of Clause A for the retention of the gas properties under the control of NEES is satisfied.

#### CONCLUSIONS

In view of the foregoing we shall direct NEES to take appropriate action to divest itself of its interests in the system's gas properties.

The remaining issue in these proceedings relates to the retainability by NEES of its interest in NEPSCO. Since

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but rather to defer decision on that issue, which is still pending. See S.E.C. 26th Annual Report, 133 (1960). In that same opinion we ordered separation of the gas properties of Louisiana Power & Light Company, another subsidiary, from its electric properties, and we subsequently refused to revoke or modify that order despite the position of the Louisiana Public Service Commission that independent operation of the gas system would increase expenses. *Middle South Utilities, Inc.*, 36 S.E.C. 383 (1955).

it appears that the operations of NEPSCO are reasonably incidental and economically necessary and appropriate to the operations of the integrated electric utility system of NEES, the proceedings will be dismissed insofar as they relate to the retainability of that company.

An appropriate order will issue.

Chairman CARY and Commissioners WOODSIDE and COHEN join in the above opinion.

ORVAL L. DUBoIS  
*Secretary*

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ORDER REQUIRING DIVESTMENT OF NON-RETAINABLE  
PROPERTIES AND PERMITTING RETENTION OF  
SERVICE COMPANY

The Commission having instituted proceedings pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935 with respect to New England Electric System ("NEES") and its subsidiary companies to determine what action, if any, should be required to limit the operations of the system to a single integrated public utility system and to such additional systems and other businesses as are retainable under the provisions of Section 11(b)(1) of the Act;

The Commission having previously found that the electric utility properties of NEES constituted a single integrated public utility system within the definition set forth in Section 2(a)(29)(A) of the Act and having dismissed the proceedings relating to that issue while retaining jurisdiction over the remaining issues (38 S.E.C. 193 (1958));

A public hearing having been held after appropriate notice, at which evidence was adduced with respect to the remaining issues whether the gas utility assets of NEES are retainable by NEES as an additional integrated utility system and whether NEES may retain its interest in New England Power Service Company as a business whose

operations are reasonably incidental or economically necessary or appropriate to the operations of the integrated electric utility system; and briefs and proposed findings and conclusions having been filed, and oral argument having been heard; and

The Commission having considered the record, and having this day issued its Findings and Opinion herein; on the basis of such Findings and Opinion

IT IS ORDERED, pursuant to Section 11(b)(1) of the Act, that the New England Electric System dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition, in an appropriate manner not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company  
Lawrence Gas Company  
Lynn Gas Company  
Mystic Valley Gas Company  
North Shore Gas Company  
Northampton Gas Light Company  
Norwood Gas Company  
Wachusett Gas Company

IT IS FURTHER ORDERED that the proceedings be, and they hereby are, dismissed insofar as they relate to the issue of whether the operations of New England Power Service Company are reasonably incidental and economically necessary and appropriate to the operations of the integrated electric utility system of New England Electric System and are retainable as such.

IT IS FURTHER ORDERED that jurisdiction be, and it hereby is, reserved to take such further steps as are necessary and appropriate to carry out the terms of this order.

By the Commission.

ORVAL L. DUBoIS

*Secretary*

<u>Engineer Public Service Co.</u>		<u>The North American Co.</u>		<u>Philadelphia Co.</u>				
<u>Gas Properties of Gulf States Utilities Co.-1940</u>		<u>Gas Properties of Virginia Electric and Power Co.-1940</u>		<u>Gas Properties of The St. Louis County Gas Co.-1942</u>				
				Per cent of estimated loss of economies to:				
<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>	<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>	<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>			
\$638,711	6.58	\$1,057,000	3.38	\$2,746,770	5.85			
Operating revenues								
Operating revenue deductions (excluding Fed. Inc. taxes)								
Fed. Inc. taxes)	\$464,006	9.46	\$ 735,294	4.86	\$2,009,757	8.01	\$13,197,846	3.79
Gross income (before deducting Fed. Inc. taxes)	\$201,594	20.85	\$ 317,890	11.25	\$ 742,037	21.68	\$ 3,565,357	14.03
Net income (before deducting Fed. Inc. taxes)	\$106,402	25.25	\$ 168,412	21.23	\$ 661,110	24.34	<u>N.A.</u>	<u>N.A.</u>
Estimated loss of economies claimed	\$ 42,076		\$ 35,750		\$ 160,900		\$ 500,328	
<u>NEES</u>								
<u>Middle South Utilities Inc.</u>		<u>Gas Properties of Louisiana Power &amp; Light Company - 1934</u>		<u>Gas Properties of Subsidiaries Combined - 1938</u>				
				Per cent of estimated loss of economies to:				
<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>	<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>	<u>Amount</u>	<u>Per cent of estimated loss of economies to:</u>			
\$4,027,081	1.44	\$4,714,956	4.67	\$5,204,186	5.18			
Operating revenues								
Operating revenue deductions (excluding Fed. Inc. taxes)	\$3,046,479	1.90	\$4,235,661	5.42	\$4,112,285	6.63		
Gross income (before deducting Fed. Inc. taxes)	\$ 911,980	5.90	\$ 479,477	47.84	\$1,151,901	23.68	\$ 4,718,864	23.28
Net income (before deducting Fed. Inc. taxes)	\$ 653,101	6.77	\$ 203,502	11.23	<u>N.A.</u>	<u>N.A.</u>	\$ 3,469,931	29.94

**APPLICATION  
of Respondents for Stay of Order  
Pending Judicial Review**

New England Electric System ("NEES") and its subsidiary companies, the Respondents in the above-captioned matter, hereby petition that pending judicial review the Securities and Exchange Commission postpone the effective date of that portion of the order of the Commission entered in this case on March 19, 1964 which requires that "New England Electric System dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition of, in an appropriate manner, not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company  
Lawrence Gas Company  
Lynn Gas Company  
Mystic Valley Gas Company  
North Shore Gas Company  
Northampton Gas Light Company  
Norwood Gas Company  
Wachusett Gas Company".

After examination of the March 19, 1964 order of the Commission and the findings and opinion of the Commission on which the order is based, the Respondents have determined to file in the Court of Appeals for the First Circuit, within the time prescribed by Section 24(a) of the Public Utility Holding Company Act of 1935, a petition that the court review and set aside, modify or grant other relief with respect to the above-quoted portion of said order.

As required by Rule XII(c) of the Rules of Practice of the Commission, this Application is made prior to filing the petition for review and is accompanied by a written

Brief of the points and authorities relied upon in support of the Application. As is more fully stated in such Brief, the Respondents question whether the Commission may properly require that the Respondents apply first to the Commission for a stay and accordingly the Respondents hereby reserve their right to challenge the requirement and to initiate at any appropriate time separate proceedings for stay before the Court of Appeals for the First Circuit.

By their attorneys,

JOHN R. QUARLES

50 Federal Street

Boston, Massachusetts

RICHARD B. DUNN

441 Stuart Street

Boston, Massachusetts

*Attorneys for the Respondents.*

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#### ORDER GRANTING STAY

On March 19, 1964, we issued our Findings, Opinion and Order, pursuant to Section 11(b)(1) of the Public Utility Holding Company Act of 1935, among other things directing that the New England Electric System ("NEES") dispose of its gas utility properties and terminate its relationship with its eight gas utility subsidiary companies (Holding Company Act Release No. 15035). The order was based on our findings that NEES and its subsidiaries had not shown that the continued control by NEES of the gas properties as an additional integrated utility system is necessary to prevent the "loss of substantial economies" within the meaning of Section 11(b)(1) of the Act.

NEES and its subsidiary companies on May 14, 1964, filed an application for a stay of the effectiveness of that part of the order which requires NEES to dispose of its

interests in its gas properties and subsidiaries, pending the determination of a petition for judicial review to be filed by applicants.<sup>1</sup> In support of their application, applicants assert that if a stay is not granted and the reviewing court should subsequently reverse the divestiture order, they and their customers and security-holders will have suffered irreparable harm in view of the size of the divestiture ordered and the expense involved in undertaking preparations for compliance. They further assert that the granting of a stay would result in only a relatively short delay in carrying out the order and would not prejudice the public interest or the interests of investors or consumers.

We recognize, as our Division of Corporate Regulation points out, that Section 11(c) of the Act provides a period of one year for voluntary compliance with the order, which period may be extended by us for up to an additional year upon an appropriate showing. Nevertheless, we do not find that under all the circumstances the public interest would be adversely affected by the exercise of our discretion to grant a stay as requested.

Accordingly, It Is ORDERED that the application for a stay of the divestment portion of the Commission's Order of March 19, 1964 pending the determination of a petition for judicial review of said portion of that order be, and it hereby is, granted.

By the Commission,

ORVAL L. DU BOIS

*Secretary*

By (s) NELLYE A. THORSEN

*Assistant Secretary*

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<sup>1</sup> A petition for review was filed in the United States Court of Appeals for the First Circuit on May 15, 1964.

IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

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No. 6332

NEW ENGLAND ELECTRIC SYSTEM  
CENTRAL MASSACHUSETTS GAS COMPANY  
GRANITE STATE ELECTRIC COMPANY  
LAWRENCE GAS COMPANY  
LYNN GAS COMPANY  
MASSACHUSETTS ELECTRIC COMPANY  
MYSTIC VALLEY GAS COMPANY  
THE NARRAGANSETT ELECTRIC COMPANY  
NEW ENGLAND POWER COMPANY  
NEW ENGLAND POWER SERVICE COMPANY  
NORTH SHORE GAS COMPANY  
NORTHAMPTON GAS LIGHT COMPANY  
NORWOOD GAS COMPANY  
WACHUSSETT GAS COMPANY,

PETITIONERS,

v.

SECURITIES AND EXCHANGE COMMISSION,  
RESPONDENT.

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PETITION OF NEW ENGLAND ELECTRIC SYSTEM  
AND ITS SUBSIDIARY COMPANIES LISTED ABOVE  
TO REVIEW AND SET ASIDE THAT PART OF THE  
ORDER OF THE SECURITIES AND EXCHANGE  
COMMISSION ENTERED MARCH 19, 1964 WHICH  
REQUIRES THAT NEW ENGLAND ELECTRIC SYS-  
TEM DISPOSE OF THE GAS UTILITY PROPERTIES  
PRESENTLY CONTROLLED BY IT AND TERMI-  
NATE ITS RELATIONSHIP WITH ITS GAS UTILITY  
SUBSIDIARIES

TO THE HONORABLE JUDGES OF THE UNITED STATES

COURT OF APPEALS FOR THE FIRST CIRCUIT:

The Petitioners, New England Electric System ("NEES") and its subsidiary companies (NEES and its subsidiary companies are herein collective referred to as the "NEES System" or the "System")\*, respectfully petition this Court to review and set aside, modify or grant other relief with respect to that part of the order of the Securities and Exchange Commission (the "Commission") entered on March 19, 1964 which requires that NEES dispose of the gas utility properties presently controlled by it and terminate its relationship with its gas utility subsidiaries, such order having been entered in the Matter of New England Electric System and Its Subsidiary Companies, Respondents (Commission File No. 59-102 (Public Utility Holding Company Act of 1935)). Copies of the Commission's findings and opinion and of its order of March 19, 1964 are attached hereto as Exhibit A.

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\*New England Electric System is a Massachusetts voluntary association with transferable shares held by the public. It is a registered holding company under the Public Utility Holding Company Act of 1935, 49 Stat. 803 (1935), 15 U.S.C. § 79 (1958). All of the subsidiaries in the NEES System are adversely affected by the Commission's order by reason of the interrelation of their activities and personnel. In 1960, at the time of the presentation by the NEES System of its direct case before the Commission, the System included fourteen electric subsidiaries, eight gas subsidiaries and a service company subsidiary. As a result of subsequent mergers and dispositions there are now four electric utility subsidiaries—Granite State Electric Company, Massachusetts Electric Company, The Narragansett Electric Company and New England Power Company; eight gas utility subsidiaries—Central Massachusetts Gas Company, Lawrence Gas Company, Lynn Gas Company, Mystic Valley Gas Company, North Shore Gas Company, Northampton Gas Light Company, Norwood Gas Company and Wachusett Gas Company; and one service company subsidiary—New England Power Service Company, which provides service to the NEES System. New England Power Company owns 30% of the stock of Yankee Atomic Electric Company and 15% of the stock of Connecticut Yankee Atomic Power Company, neither of which is included as a Petitioner or referred to as a subsidiary of NEES herein.

This petition is filed pursuant to Section 24(a) of the Public Utility Holding Company Act of 1935, 49 Stat. 834 (1935), as amended, 15 U.S.C. §79x(a) (1958). The Petitioners are persons or parties aggrieved by the order because it requires that NEES take action which is not warranted by the facts as they appear in the record and which would result in substantial loss by the NEES System of operating efficiencies and economies and other benefits. As required by said Section 24(a), this petition is filed within sixty days after the entry of the order of the Commission.

In accordance with Rule 16(1) of the Rules of the United States Court of Appeals for the First Circuit, the Petitioners state as follows:

I. NATURE OF THE PROCEEDINGS AS TO WHICH REVIEW IS SOUGHT.

This is a proceeding under Section 11(b)(1) of the Public Utility Holding Company Act of 1935 (49 Stat. 820 (1935), 15 U.S.C. § 79k(b) (1958)) (the "Act"), begun by the Commission by notice and order for hearing dated August 5, 1957 (SEC Holding Co. Act Release No. 13525) to determine

"(a) Whether the electric utility assets of the New England Electric System holding company system constitute a single integrated electric utility system or more than one such system;

"(b) Whether the gas utility companies of the New England Electric System holding company system constitute a single integrated gas utility system or more than one such system;

"(c) The nature, extent and location of the 'single integrated public-utility system' of the New England Electric System holding company system;

"(d) Whether, in addition to the New England Electric System holding company system's 'single integrated public-utility system', any of its additional electric or gas utility systems may be retained under common control under the provisions of Section 11(b)(1) of the Act, specifically Clauses (A), (B) and (C) thereof;

"(e) Whether any of the non-utility business conducted by the New England Electric System holding company system are reasonably incidental, or economically necessary or appropriate to the operations of the integrated public-utility system or systems retainable under common control;

"(f) What action is necessary to be taken by the New England Electric System holding company system to limit the operations of the system to those of a single integrated public-utility system, together with such additional utility systems, and such other businesses, if any, as are retainable under the standards of Section 11(b)(1) of the Act."

SEC Holding Co. Act Release No. 13525, at p. 11 (August 5, 1957).

By agreement between counsel for Petitioners and the Commission, evidence was first taken with respect to the NEES System's electric properties and operations, and on February 20, 1958, on Petitioners' motion, the Commission made findings and entered an opinion and order declaring that the electric utility assets of the NEES System constitute an integrated public-utility system and dismissing the proceeding insofar as it related to that issue. SEC Holding Co. Act Release No. 13688 (February 20, 1958).

Thereafter, on May 18, 1960, by order of the Commission dated February 8, 1960, the hearing was resumed for the presentation of further evidence with respect to the other issues in the proceeding. SEC Holding Co. Act Release

No. 14159 (February 8, 1960). Petitioners and the Massachusetts Department of Public Utilities, as an Intervenor, presented five days of direct testimony and 53 exhibits relating principally to the questions whether the gas utility properties and operations of the NEES System were confined to a single integrated gas utility system and whether the gas utility properties were retainable by NEES along with its single integrated electric utility system under the standards of Section 11(b)(1) of the Act, particularly Clauses (A), (B) and (C) thereof. The hearing was reconvened on April 5, 1961 and April 24, 1961, for five days of cross-examination of Petitioners' witnesses with respect to their direct testimony offered almost a full year previously. Further exhibits were introduced, five by the Commission staff and seventeen by Petitioners at the Commission staff's request. The Commission staff offered no other evidence. On May 17, 1961, the hearing was reconvened for one day. At that time Petitioners introduced six more exhibits, the Commission's staff witness through whom its exhibits were introduced was cross-examined, and the hearing was closed. The total record in the case includes more than 1,750 pages of testimony and over 75 exhibits including the reports of Ebasco Services Incorporated, an independent engineering and consulting firm, which alone consist of over 500 pages.

In August, 1961 the Petitioners submitted their brief and proposed findings and conclusions to the Commission and the Massachusetts Department of Public Utilities, the Intervenor, filed its brief. In December, 1961 the Commission staff submitted its answering brief and proposed findings and conclusions. Reply briefs were filed in March, 1962 by the Petitioners and the Intervenor and in May, 1962 by the Commission staff. Oral argument on behalf of the Petitioners, the Intervenor and the Commission staff was held before the Commission on June 12, 1962.

On March 19, 1964 the Commission issued its findings and opinion and entered the order now appealed from. SEC Holding Co. Act Release No. 15035 (March 19, 1964). This petition is addressed to, and appeal is taken from that part of the order which requires that NEES "dispose of the gas utility properties presently controlled by it and terminate its relationship with the following companies by disposing of or causing the disposition, in an appropriate manner not in contravention of the Act or the Rules, Regulations or Orders of the Commission thereunder, of all interests, direct or indirect, which it holds in those companies:

Central Massachusetts Gas Company  
Lawrence Gas Company  
Lynn Gas Company  
Mystic Valley Gas Company  
North Shore Gas Company  
Northampton Gas Light Company  
Norwood Gas Company  
Wachusett Gas Company".

The order also dismissed the proceedings insofar as they related to the issue of whether the operations of New England Power Service Company are reasonably necessary and appropriate to the operations of the integrated electric utility system of NEES and are retainable as such. That aspect of the order is not appealed from.

On May 14, 1964 in compliance with Rule XII(e) of the Commission's Rules of Practice, the Petitioners filed and there is now pending before the Commission an application asking that pending judicial review the Commission postpone the effective date of that part of the order now appealed from. The Petitioners seriously doubt the validity of said Rule and have reserved their rights, if they later decide to do so, to request this Court to grant such a stay.

## II. FACTS UPON WHICH VENUE IS BASED

Section 24(a) of the Act provides in part that:

"Any person or party aggrieved by an order issued by the Commission under this chapter may obtain a review of such order in the United States court of appeals within any circuit wherein such person resides or has his principal place of business, or in the United States Court of Appeals for the District of Columbia, by filing in such court, within sixty days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part."

All of the Petitioners have their principal places of business within the First Circuit.

## III. GROUNDS ON WHICH RELIEF IS SOUGHT.

The Commission has previously found that the electric utility assets of the NEES System constitute a single integrated public-utility system, and the Commission has found that the NEES gas subsidiaries also constitute a single integrated public-utility system (page 2 of the findings and opinion on which the order appealed from is based). The only issue now remaining and the issue raised on this appeal is whether under Section 11(b)(1) of the Act the Commission is required to permit NEES to continue to control its integrated gas utility system as an additional integrated public-utility system for the reason that NEES has met the tests of Clauses (A), (B) and (C) of that Section. In its findings and opinion the Commission has found that without question NEES meets the standards of Clauses (B) and (C) (page 5 of the findings and opinion on which the order appealed from is based). This appeal thus squarely focuses on the test of Clause (A), namely whether the gas utility subsidiaries of NEES can or cannot "be operated as an independent system without the loss of

substantial economies which can be secured by the retention of control by [NEES] of such system." The Commission has concluded that the Petitioners have failed to demonstrate that this test is satisfied.

The Petitioners intend to raise the following points with respect to the Commission's findings and opinion and its order for divestiture:

1. The order is not supported by, and is not in accordance with the applicable law and the reliable, probative, substantial and uncontroverted evidence in the case.
2. The Commission has misconstrued Section 11(b)(1)(A) of the Act in concluding that in this case losses of economies of nearly \$2,000,000 annually by the operating utility companies of the NEES System are not relevant and substantial within the meaning of that Section.
3. The Commission has misconstrued Section 11(b)(1)(A) of the Act in concluding that in this case losses of economies of \$1,098,600 annually by the gas utility companies of the NEES System are not substantial within the meaning of that Section.
4. The Commission has failed to make findings requested by the Petitioners and supported by substantial and uncontroverted evidence.
5. The Commission has not taken account of the testimony, expertise and opinion of the Massachusetts Department of Public Utilities on matters peculiar to the situation in Massachusetts and peculiarly within the knowledge and experience of said Department.
6. The Commission's findings and conclusions show that the Commission has not adequately examined the record in this case and has not applied its expert judgment to the evidence.

## IV. RELIEF PRAYED.

The Petitioners pray:

1. That that part of the Commission's order of March 19, 1964 which requires divestiture of the NEES gas properties be set aside.
2. That, in the alternative, the Commission be ordered to dismiss the proceedings against petitioners instituted under Section 11(b)(1) of the Act insofar as they relate to divestiture of the NEES gas properties.
3. That, in the alternative, the case be remanded to the Commission for further proceedings under appropriate instructions from the Court.
4. For such other and further relief as may be just and proper.

By their attorneys,

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STIPULATION AS TO RECORD  
TO BE PRINTED

New England Electric System et al, the Petitioners, and Securities and Exchange Commission, the Respondent, being all of the parties in the above-captioned case, hereby stipulate and agree as follows:

1. The parts of the record referred to in the CERTIFICATE LISTING AND DESCRIBING RECORD IN PROCEEDINGS BEFORE SECURITIES AND EXCHANGE COMMISSION dated June 1964 and filed herein by the Respondent, which are to be printed in the appendix to the Petitioners' brief, pursuant to Rule 23, are as follows:
  - (a) Relevant docket entries below.
  - (b) The documents in the nature of pleadings, findings and opinions and orders of the Commission listed in said Certificate under document numbers 158, 159, 163 (Motion only), 165, 166, 167 (Notice of Appearance and Answer only), 204, 205 (Application only) and 208.
  - (c) The transcript of hearings before the Hearing Examiners on May 18, 19, 20, 23 and 24, 1960 and on April 5, 6, 7, 10 and 24, and May 17, 1961, described under document number 1, being transcript page 593 through page 1619-745 covering, among other things, all hearings pertaining to the segregation of the gas utility companies from the NEES System. (The earlier hearings related exclusively to the electric utility operations and related matters.)
  - (d) The Petitioners' exhibits listed under document numbers 6, 70 through 81, 83 through 92, 94, 103 through 107, 109 through 117, 127 through 139, and 141 through 144.
  - (e) All of the Division's exhibits pertaining to the segregation of the gas utility companies, being those listed under document numbers 147 through 157.
2. The parts of the record specified above constitute all of the record relevant to the issues involved in this proceeding and are adequate for the purpose. If, however, any procedural question should arise, any

of the parties may refer to any part of the record not so printed; and if in the preparation of briefs and argument any of the parties should find it appropriate to refer to any part of the record not so printed, it may print such part in a supplemental appendix to its brief.

(s) JOHN R. QUARLES

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(s) EDWARD P. DELANEY

*Attorney for Respondent,  
Securities and Exchange Commission*

Dated: July 13, 1964.

